

# Public Document Pack



County Hall  
Rhadyr  
Usk  
NP15 1GA

Friday, 31 May 2024

## Notice of meeting

### Standards Committee

Monday, 10th June, 2024 at 10.00 am,  
Conference Room - Usk, NP15 1AD

### AGENDA

Item No	Item	Pages
1.	Election of Chair	
2.	Election of Vice Chair	
3.	Declarations of Interest	
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10.	Verbal Update: PSOW Independent Review	Verbal Report
11.	Next Meeting 16th September 2024	

**Paul Matthews**  
Chief Executive

MONMOUTHSHIRE COUNTY COUNCIL  
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillors:

Frances Taylor  
Fay Bromfield  
Catherine Fookes

Independent Members

Ruth Price  
Andrew Blackmore  
Michael John  
Rhian Williams-Flew  
Peter Easy  
Marion Gibson

## Public Information

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### Welsh Language

The Council welcomes contributions from members of the public through the medium of Welsh or English. We respectfully ask that you provide us with adequate notice to accommodate your needs.

# Aims and Values of Monmouthshire County Council

## Our purpose

- to become a zero-carbon county, supporting well-being, health and dignity for everyone at every stage of life.

## Objectives we are working towards

- Fair place to live where the effects of inequality and poverty have been reduced;
- Green place to live and work with reduced carbon emissions and making a positive contribution to addressing the climate and nature emergency;
- Thriving and ambitious place, where there are vibrant town centres and where businesses can grow and develop
- Safe place to live where people have a home where they feel secure in;
- Connected place where people feel part of a community and are valued;
- Learning place where everybody has the opportunity to reach their potential

## Our Values

**Openness.** We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

**Fairness.** We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

**Flexibility.** We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

**Teamwork.** We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

**Kindness:** We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.



# Public Document Pack Agenda Item 4

## MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Standards Committee held  
at Council Chamber, County Hall, The Rhadyr USK on Monday, 9th October, 2023 at  
10.00 am**

**PRESENT:** County Councillors: Fay Bromfield and Frances Taylor

Independent Members: Richard Stow (Chair), Peter Easy, Rhian Williams-Flew

Community Committee Member: Michael John

### **OFFICERS IN ATTENDANCE:**

Amy Gullick  
Joanne Chase  
Ben Davies

Local Democracy Officer  
Solicitor and Deputy Monitoring Officer  
Solicitor and Deputy Monitoring Officer

#### **1. Apologies for Absence**

County Councillor Catherine Fookes and Marion Gibson

#### **2. Declarations of Interest**

County Councillor Frances Taylor declared a personal, prejudicial interest pursuant to the Members' Code of Conduct in respect of agenda item 14.

#### **3. Minutes of the Previous Meeting**

The minutes of the meeting held on 12<sup>th</sup> June 2023 were approved as an accurate record.

In doing so, it was noted that the Constitution of the Committee contained in the agenda front sheet was incorrect and should be amended to read:

- M. John (Community Representative)

The Chair provided feedback on actions raised:

- Item 5, Gifts and Hospitality Policy: The chair confirmed that the new learning management system and the anti-bribery and corruption training would be discussed under agenda item 9, code of conduct training.
- We noted the Deputy Monitoring Officer had responded to the Welsh Government's consultation on the Richard Penn report, which was submitted by the 23<sup>rd</sup> June.
- Amendments to the Standards Committee Annual Report had been made and the final report went to Full Council on the 21<sup>st</sup> September.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=62](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=62)

#### **4. Adjudication Panel for Wales Annual Report 2022-23**

# MONMOUTHSHIRE COUNTY COUNCIL

## Minutes of the meeting of Standards Committee held at Council Chamber, County Hall, The Rhadyr USK on Monday, 9th October, 2023 at 10.00 am

The Chair explained that following the previous meeting, he had sent out the current APW Sanctions Guidance on the 17<sup>th</sup> June, as it was the committee's intention to attend forthcoming hearings. However, committee members were unable to attend, as the four hearings that were considered, were not open to the public or media. Members noted the importance of keeping the document as a reference guide to compliment the Ombudsman Code of Conduct guidance.

The Chair explained that the decision reports for the 'paper determination' hearings were all online, should members wish to view them.

The committee noted that consultation on the unification of the 7 tribunals started on the 19<sup>th</sup> June and closed on the 2<sup>nd</sup> September.

During discussion, we noted that the judiciary was promoting open justice and that there is a push for Tribunals and the Court of Protection to have applications for open justice that are considered before the case is heard.

The Chair agreed to follow up the matter, as the committee did include open justice in their consultation response. In addition, the contact and responsiveness to emails would also be raised as a concern.

The Chair briefed the committee on the Annual Report and during discussion the following points were raised:

- We noted the number of references and appeals received, which averaged 3 or 4 a year, which was felt to be a relatively small number.
- The number one breach was disrepute, code paragraph 6(1)(a).
- 4 case tribunals in 2022/23, of which, 3 were 'on the papers' and one online.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=249](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=249)

### **5. PSOW Annual Report 2022-23**

The Chair provided the committee with an overview of the key findings from the PSOW Annual Report and during discussion the following points were noted:

- Code of Conduct complaints were down 4% from the previous year.
- During the year, 280 cases were closed: almost no change on the previous year.
- In the current year, 35 were investigated, 12 were referred, with 8 going to Standards Committees and 4 went to the Adjudication Panel. Therefore, out of the 280, approximately 1 in 8 were investigated and 1 in 3 of those investigated were referred.
- Compared to last year's statistics, this appears to be a better year for conduct.
- The Chair expressed concern that the breakdown of the code of conduct complaints were based on the Nolan principles and that it would be more useful to use the code paragraph numbers, as used by the Adjudication Panel.
- 61% of complaints that were valid, were about the 'Promotion of Equality and Respect'. It was felt that this was too big a category to understand the severity of the situation.
- It was also felt that Bullying and Harassment should be given its own category, given the possible severity of the instances.
- We noted within the Key Performance Indicators that the target number of cases closed within 12 months was 90%, however only 66/67% of cases were actually closed.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Standards Committee held at Council Chamber, County Hall, The Rhadyr USK on Monday, 9th October, 2023 at 10.00 am

It was agreed that the Chair would write to the Public Services Ombudsman, asking if code paragraphs can be used and if the complaint subject 'Promotion of Equality and Respect' can be broken down into different categories, as 61% is too large a category to understand the incidents.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=1388](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=1388)

#### **6. PSOW Annual Letter to MCC dated 17th August 2023**

The Chair provided an overview of the PSOW Annual Letter for Monmouthshire County Council. We noted that the previous Monitoring Officer had written to the Public Services Ombudsman to request sight of the letter earlier, to enable the Committee to complete its annual report as the letter contained the complaint scores for the Council, but it was not received in time.

We noted that there was only 1 complaint about a member of Monmouthshire County Council, which was discontinued. Amongst the Town and Community Councils there were only 5 received which PSOW decided not to investigate.

It was explained that the letter should also go to Cabinet and the Governance and Audit Committee for information.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=1895](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=1895)

#### **7. MCC Conduct Complaint Data 2015 - 2023**

The Chair provided members of the committee with a table of the conduct complaints about Monmouthshire County Council Members, determined by the Public Services Ombudsman between 2015 – 2023, to accompany the annual letter.

We noted that between 2015 – 2023, no complaints had been referred to the Standards Committee and only one had been referred to the Adjudication Panel in 2017-18.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=1997](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=1997)

#### **8. PSOW Code of Conduct Complaints Process**

The Committee were presented with the Public Services Ombudsman for Wales Code of Conduct Complaints Process summary. The committee were reminded of previous discussions in February regarding the proposed changes to the Code of Conduct Complaints process and we noted that members' views on the changes were mixed at the time.

The Chair confirmed that the summary document was attached to the agenda for information only.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=2141](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=2141)

#### **9. Code of Conduct Training**

The Committee were informed that there had been no requests for Code of Conduct Training since the last meeting.

## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Standards Committee held at Council Chamber, County Hall, The Rhadyr USK on Monday, 9th October, 2023 at 10.00 am

We heard that Planning Committee members had been receiving more training, which may have been a result of a previous request made at the Standards Committee.

We were informed that there was a separate Code of Conduct document for the Planning Committee to that of the Council's Code of Conduct in the Constitution. The Chair would raise this with the new Monitoring Officer, as there are questions on its ownership, training needs and why is it not contained in the Constitution.

It was suggested that it would be useful for Planning Committee members to receive Code of Conduct refresher training.

Questions were raised as to whether all co-opted members had received training and we noted that it would be useful for training records to be contained in the new learning management system that was being developed by Democratic Services.

It was agreed that the Democratic Services Officer would follow up on whether there were any co-opted members on any other Committee's outside of the Standards Committee and Governance and Audit Committee.

The Chair also requested the inclusion of the Gifts and Hospitality Policy in the Anti Bribery & Corruption training and information on who provides the training.

The chair agreed to discuss the requirement for follow-up code of conduct training for MCC members (based on scenarios/examples) with the new Monitoring Officer.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=2242](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=2242)

County Councillor Frances Taylor left the meeting at the close of this item.

#### **10. Annual Report of the Standards Committee for 2022-23 - presented at Council on 21st September 2023**

The Chair informed the Committee that the Annual Report of the Standards Committee for 2022/23 was taken to Council on the 21<sup>st</sup> September 2023 and no questions were raised at the meeting.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=3688](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=3688)

#### **11. Welsh Government Guidance for s 62 & s 63 LGE21 - published on 15th June 2023**

We noted that the Welsh Government had published its guidance on the two new duties under section 62 and 63 on the 15<sup>th</sup> June 2023. At the meeting of the Standards Committee in March 2022, members looked at the draft guidance and felt they did not need to put in a response to the consultation. It was explained that the new duties came into force in May 2022 and the Monitoring Officer made all Political Group Leaders aware of the new duties placed on them and noted the new duties placed on the Standards Committee.

We were presented with information relevant to the committee, which was contained in Part 2 of the document, under sections 4-7. The Chair provided an overview of the changes that had been included since the draft document. In doing so, the following points were noted:

- Paragraph 4.29 - the requirement for Political Group Leaders to keep records of steps they have taken.



## MONMOUTHSHIRE COUNTY COUNCIL

### Minutes of the meeting of Standards Committee held at Council Chamber, County Hall, The Rhadyr USK on Monday, 9th October, 2023 at 10.00 am

- Paragraph 4.36 – Political Group Leaders should meet with the Standards Committee on several items detailed.
- Members expressed concerns over the prescriptiveness of the new duties imposed on both Political Group Leaders and the Standards Committee.
- A number of questions were raised on the implementation of the new responsibilities that would need to be raised with the new Monitoring Officer.
- We noted that there was now a duty placed on the Standards Committee to establish the threshold on what they are content with the Political Group Leaders complying with.
- Members felt that there was a significant shift in the committees' terms from that of oversight and guidance, to active involvement. Members noted that the guidance states they should be providing advice on statutory guidance, which the committee felt that as independent members, they should remain at arm's length to operational matters.
- Paragraph 5.7 – Standards Committee should play a proactive role in promoting and supporting high standards of conduct in Town and Community Councils. We noted that One Voice Wales provided support and training to the community councils.
- Paragraph 5.10 – Standards Committee to regularly review the approach taken in respect of gifts and hospitality.
- Paragraph 6.4 – Standards Committee should meet with group leaders at the beginning of each council year.
- A question was raised relating to the training records for Town and Community Council and it was agreed that information would be sought on what the provisions of the training plan were.
- A further query was raised as to whether Planning Officers would be interested in providing a training session open to all Town and Community Councils.
- Members noted that the Standards Committee cannot mandate any training, as stated in paragraph 7.7.
- Paragraph 7.8 – we noted the requirement for the Standards Committee Annual Report to be shared with the Public Services Ombudsman for Wales and Town and Community Councils.

Members expressed serious concerns regarding the new duties, which in effect, change the role of the Standards Committee without justification or explanation of what is felt is wrong with the current model.

The chair agreed to contact One Voice Wales to see if they would provide information on training delivered to town and community councils in Monmouthshire.

[https://www.youtube.com/live/DJc0\\_otfvbY?feature=shared&t=3816](https://www.youtube.com/live/DJc0_otfvbY?feature=shared&t=3816)

#### **12. Provisional Meeting Dates for 2024-25:**

We noted the provisional meeting dates for 2024–25.

#### **13. Date of Next Meeting - 26th February 2024**

Noted.

#### **14. Ombudsman Decision Notices**

It was agreed to defer the item to a future meeting of the Standards Committee when the new Monitoring Officer is in post.

**MONMOUTHSHIRE COUNTY COUNCIL**

**Minutes of the meeting of Standards Committee held  
at Council Chamber, County Hall, The Rhadyr USK on Monday, 9th October, 2023 at  
10.00 am**

**The meeting ended at 11.50 am**



**Subject: Local Resolution Protocol**

**Meeting: Standards Committee**

**Date: 10<sup>th</sup> June 2024**

**Divisions/Wards Affected: All**

## **1. PURPOSE:**

- 1.1 To seek the endorsement of the Standards Committee of a proposed Local Resolution Protocol to deal with low level member on member complaints in accordance with the guidance of the Public Services Ombudsman for Wales (“the Ombudsman”).

## **2. RECOMMENDATIONS:**

- 2.2 That the Standards Committee endorses the Local Resolution Protocol attached at Appendix 1, subject to the approval of Council.

## **3. KEY ISSUES:**

- 3.1 The Ombudsman expects Councils to establish local resolution procedures to reduce the number of complaints referred to the Ombudsman relating to ‘low-level’ behavioural issues between members, which typically arise in what may be regarded as the “cut and thrust” of normal Council debates and local politics.
- 3.2 In the Ombudsman’s guidance on the Members’ Code of Conduct (paragraphs 1.17 and 1.18), the Ombudsman states that *“In my view such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that my resources are devoted to the investigation of serious complaints. The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority’s reputation.”*
- 3.3 Welsh Government Guidance published in June 2023 states that the Standards Committee annual report must *“confirm the operation of a local protocol for the resolution of complaints and provide an assessment of its impact”*.
- 3.4 Although the Council currently has some provision for the informal resolution of disputes within the constitution (the Protocol for Self-Regulation of Member Conduct), it does not yet operate a local resolution procedure as envisaged by the Ombudsman.
- 3.5 The Local Resolution Protocol aims to seek the early resolution of ‘low level, member on member’ conduct complaints (often about an alleged failure to show respect and consideration) and avoid the unnecessary escalation of situations which may damage personal relationships within the Council and the Council’s reputation.

- 3.6 A draft Local Resolution Protocol is attached to this report as Appendix 1.
- 3.7 The Local Resolution Protocol provides for a two-stage process for the local resolution of low level disputes. Stage One will involve the Monitoring Officer or other appropriate legal officer attempting to resolve the matter informally with the agreement of all parties concerned. Group Leaders may also be involved at this stage given their statutory obligations pursuant to s.52A Local Government Act 2000 to take reasonable steps to promote and maintain high standards of conduct by the members of their group, and to co-operate with the council's Standards Committee in the exercise of the Standards Committee's functions.
- 3.8 If it is not possible to resolve the matter at Stage 1, the matter may proceed to Stage Two, which is a hearing of the Standards Committee. The procedural rules for the hearing are set out within the Local Resolution Protocol.
- 3.9 Whilst members are not obliged to use the Local Resolution Protocol, and can continue at any time to refer the matter to the Ombudsman instead, the Ombudsman has made clear that members are in the first instance expected to exhaust local processes in relation to low level issues before referring a matter to the Ombudsman.
- 3.10 If members endorse the attached Local Resolution Protocol, then it will need to be approved by a meeting of Council before being incorporated into the Council's constitution and taking effect.

#### **4. REASONS**

- 4.1 To ensure the Council operates a Local Resolution Protocol in accordance with the guidance issued by the Public Services Ombudsman for Wales.

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

- 5.1 Any hearing conducted under Stage 2 will require resources in terms of officer and member time. Further, co-opted standards committee members are entitled to £210 over 4 hours and £105 up to 4 hours. The chair of the committee is entitled to £268 for over 4 hours and £134 up to 4 hours.

#### **6. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING)**

- 6.1 No implications.

#### **7. BACKGROUND PAPERS**

Appendix 1 – Local Resolution Protocol

#### **AUTHOR:**

James Williams  
Chief Officer Law & Governance (Monitoring Officer)  
Email: [Jameswilliams@monmouthshire.gov.uk](mailto:Jameswilliams@monmouthshire.gov.uk)

## **Monmouthshire County Council**

### **Local Resolution Protocol**

#### **1. Introduction**

- 1.1 This Protocol has been established in accordance with the Ombudsman's guidance on the Code of Conduct for Members ("the Code") which states that "low-level, member-on member" complaints relating to breaches of the Code should be dealt with at a local level. The aim of the Protocol is to avoid the unnecessary escalation of situations which may damage personal relationships within the Council and the Council's reputation.
- 1.2 This Protocol does not prevent members from referring any complaint to the Ombudsman if they wish. However, members should be aware that the Ombudsman has made it clear that, in normal circumstances, it is expected that in the first instance members should exhaust the procedures set out in this Local Resolution Protocol before referring low-level complaints to the Ombudsman.
- 1.3 Whether or not a complaint is "low level" in nature will depend upon the individual circumstances of each case. However, the Ombudsman has indicated that 'typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code.'
- 1.4 If you are unsure whether a matter you wish to complain about is 'low-level', then you should seek advice from the Monitoring Officer.

#### **2. Scope**

- 2.1 In order to fall within the scope of this Protocol complaints must meet all three of the following criteria:
  - be made by a member of the Council and relate to a breach of the Member Code of Conduct;
  - be low-level in nature; and
  - not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman.

#### **3. Procedure**

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

- 3.3 If any member elects at any time to refer the matter to the Ombudsman for investigation, the Protocol process will be discontinued and cannot subsequently be resumed.
- 3.4 The Standards Committee may delegate the functions under this procedure to a sub-committee. Any such sub-committee established for this purpose shall be composed of three members of the Committee, at least two of whom must be independent members of the Committee.
- 3.5 Where the Chair of the Committee is not a member of a sub-committee established under this protocol, then the sub-committee shall elect one of the independent members to serve as Chair for each meeting.
- 3.6 Except for any decisions that may be expressed in this protocol to be taken by the Chair, any decision of the Panel shall be made on the basis of a simple majority vote.
- 3.7 References to 'Committee' in this protocol shall include the Standards Committee or any sub-committee to which it has delegated the functions of this protocol.
- 3.8 Stage One - Making The Complaint And Informal Resolution
- 3.8.1 Any member who wishes to submit an allegation under the Protocol should send the complaint to the Monitoring Officer. The complaint must be submitted to the Monitoring Officer within one month of the event that has given rise to the complaint occurring or, within one month of the substance of the complaint coming to the attention of the member submitting the allegation.
- 3.8.2 The complaint must set out the relevant details of the behaviour or conduct complained of and which paragraphs of the Code the member believes has been breached.
- 3.8.3 Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within the Protocol or whether the complainant(s) should instead consider referring the matter to the Ombudsman.
- 3.8.4 If the Monitoring Officer determines that the allegation falls within the remit of the Protocol he/she will seek to try and resolve the matter informally with the agreement of all parties concerned.
- 3.8.5 The relevant Group Leaders may also be involved at this stage given their statutory obligations pursuant to s.52A Local Government Act 2000 to take reasonable steps to promote and maintain high standards of conduct by the members of their group and to co-operate with the council's Standards Committee in the exercise of the Standards Committee's functions.
- 3.8.6 All parties involved at Stage One will take into account any advice and guidance of the Monitoring Officer.

- 3.8.7 If the matter is not capable of resolution at Stage One the complainant may ask that the matter be considered by a hearing of the Standards Committee under Stage Two of this Protocol.
- 3.8.8 The Chair of the Standards Committee will make a determination as to whether it is in the public interest for the matter to proceed to Stage Two. This determination will be final. In making this determination, the Chair of the Standards Committee must take into account the advice of the Monitoring Officer and any guidance of the Ombudsman.
- 3.9 Stage Two – Standards Committee Hearing
- 3.10 Member(s) making the complaint will be asked to re-confirm the substance of the complaint in writing to the Monitoring Officer, including identifying which paragraphs of the Code they believe have been breached, together with all the written evidence they wish to submit for consideration at the hearing. This written submission must be provided within two weeks of the member notifying the Monitoring Officer they wish the complaint to progress to Stage Two.
- 3.11 The member(s) who is the subject of that complaint must provide a written response to that complaint within one month of receipt of it, together with all written evidence they wish to submit for consideration at the hearing.
- 3.12 The Monitoring Officer if he/she participated in Stage One will notify the Deputy Monitoring Officer or a Legal Officer of receipt of the complaint who shall thereafter have conduct of the matter. The relevant officer (“Legal Adviser”) will advise the Standards Committee on legal and procedural issues during this process and at the hearing.
- 3.13 All members must respond promptly to all correspondence relating to the matter including requests to confirm availability in respect of scheduling the hearing itself. Member(s) will be given dates within a two month window in which they must confirm a date they are available to attend the hearing.
- 3.14 The papers referred to in paragraphs 3.10 and 3.11 will be distributed to the members of the Standards Committee in accordance with the Council’s Access to Information Rules.
- 3.15 No additional evidence may be produced without the prior consent of the Chair of the Standards Committee.
- 3.16 Each member must give notification in writing to the Legal Adviser of any witnesses they intend to call to give evidence at the hearing. It is the responsibility of the member calling the witness to ensure that the witness is available to attend on the agreed date.
- 3.17 If either side wishes not to be present or fails to attend, the hearing may be held in their absence.

- 3.18 Should they deem it appropriate, the Standards Committee may invite Council officers to attend the hearing to answer any questions they may have relevant to the matter before it.
- 3.19 The proceedings at the Standards Committee hearing shall be conducted in the following order:
- Opening address by the Chairman;
  - The complainant will be invited to address the Committee to outline their complaint;
  - Committee members may ask the complainant questions about their complaint;
  - The member who is subject to the complaint will be invited to address the Committee;
  - Committee members may ask that member questions about their submissions;
  - Witnesses for the complainant will be invited to address the Committee;
  - Committee members may ask those witnesses questions about their evidence;
  - Witnesses for the member who is the subject of the complaint will be invited to address the Committee;
  - Committee members may ask those witnesses questions about their evidence;
  - If any officers have been invited to attend the Standards Committee hearing to give evidence, then members of the Committee shall ask them questions at this stage;
  - The complainant will be invited to make any closing remarks, but shall not be permitted to introduce new evidence at this stage;
  - The member subject to the complaint shall be invited to make any closing remarks, but shall not be permitted to introduce new evidence at this stage;
  - The Standards Committee shall then retire to deliberate in private on the representations. The Committee must make a determination as to whether there has been a breach of the Code , and if so, whether a sanction should be imposed. In coming to their findings, the Standards Committee should seek and take into account the advice of the Legal Advisor.
  - The Standards Committee shall reconvene for the Chairman to announce the Committee's finding.



3.20 The Committee can come to one or more of the following determinations, namely:-

- i) that there is no basis to the complaint and no further action required;
- ii) that there is a basis to the complaint but that no further action is required in the public interest;
- iii) that there is a basis to the complaint and that the member should be censured at the next meeting of Council and/or additional action should be taken;
- iv) referral to the Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Standards Committee has the power to impose.

3.21 During proceedings, members are not entitled to cross examine each other or each other's witnesses.

3.22 The Chair may at his/her sole discretion vary the procedure and order of the hearing to ensure a fair and efficient hearing.

#### **4. General**

4.1 Where complaints are considered under stage one, the monitoring officer shall report to standards committee periodically the numbers and types of complaints involved, and whether a mutually acceptable resolution was achieved, but the parties names shall remain confidential

4.2 The stage two hearing before the Standards Committee will generally be conducted in an open session of the Standards Committee, subject to the Council's Access to Information Rules.

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**Subject: Planning Code of Practice**

**Meeting: Standards Committee**

**Date: 10<sup>th</sup> June 2024**

**Divisions/Wards Affected: All**

**1. PURPOSE:**

1.1 To update the Standards Committee in relation to the Planning Code of Practice.

**2. RECOMMENDATIONS:**

2.1 That Standards Committee notes the position in relation to the Planning Code of Practice, attached at Appendix 1.

**3. KEY ISSUES:**

3.1 At a meeting of the Standards Committee on 9<sup>th</sup> October 2023 members noted that there was a document entitled a 'Planning Code of Practice' which appeared to prescribe rules and procedures for the meetings of Planning Committee, but did not appear in the Council's constitution. The Chair of the Standards Committee raised this issue with the new Monitoring Officer in November 2023 and asked him to clarify the status of the document at the next meeting of the Standards Committee.

3.2 The Monitoring Officer has reviewed the position with colleagues in the planning department and noted that although the Code of Practice appeared to prescribe procedural rules and best practice guidance for both members and officers involved in the planning process, it was unclear what status the document had, in that it did not form part of the Council's constitution and had not been reviewed for several years.

3.3 Further, as the purpose of the Code of Practice is to provide procedural rules and guidance, it is the view of the Monitoring Officer that it should be incorporated into the Council's constitution.

3.4 The Monitoring Officer asked planning colleagues to review the Code of Practice with the support of the Council's Planning Lawyer to ensure that it was up to date with current law and guidance.

3.5 A revised Code of Practice has now been prepared (attached at Appendix 1). This document was approved by a meeting of the Planning Committee on 6<sup>th</sup> February 2024 subject to the approval of Council.

3.6 Members are asked to note that in order for the revised Code of Practice to be incorporated into the Council's constitution, it must be approved by a meeting of Council in due course.

**4. REASONS**

- 4.1 To ensure that rules and procedures of the Planning Committee are appropriately incorporated into the Council's constitution.

**5. RESOURCE IMPLICATIONS**

- 5.1 There are no immediate financial impacts arising from the proposals.

**6. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING)**

- 6.1 No implications.

**7. BACKGROUND PAPERS**

Appendix 1 – Planning Code of Practice

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CYNGOR  
monmouthshire  
COUNTY COUNCIL  
*sir fynywy*

**PLANNING CODE OF PRACTICE**

**Monmouthshire County  
Council  
Cyngor Sir Fynwy**

**Planning Code of Practice**

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**Monmouthshire County  
Council  
Cyngor Sir Fynwy**

**Planning Code of Practice**

**1.0 Introduction**

- 1.1 This Code of Practice is intended to guide the procedures by which Councillors ('Members') and Officers of the Council deal with planning matters and to set standards of probity and conduct expected of them. Monmouthshire County Council will seek to adopt best practice in its administration of the planning process. It recognises that the public expects the Council to subscribe to the principles of fairness, consistency and objectivity. Members of the Planning Committee have a key role in ensuring that these principles are followed and the Council has stated that the Planning system must be fair and open. Elected Members are critically important in arbitrating between competing arguments.
- 1.2 The Town and Country Planning system involves the Council taking decisions about private proposals for the development and use of land, but in the public interest. Planning law requires that all planning applications be determined in accordance with the adopted development plan unless material planning considerations indicate otherwise. The Council must also take account of representations made by members of the public, in as far as they relate to material planning considerations.
- 1.3 As the planning system affects people's lives and private interests it can be very contentious. It is therefore important that members of the public understand the system and has confidence in its integrity and transparency, and that Members and Officers avoid impropriety or even the suspicion of impropriety.
- 1.4 Members and Officers must not only ensure that their conduct accords with the Code of Conduct for Members and professional standards for officers (which cover such matters as declarations of interests, gifts and hospitality), but, when dealing with planning matters, also act in accordance with this Planning Code of Practice.
- 1.5 A breach of this code, while not usually amounting to a breach of criminal law, may adversely affect the standing and reputation of the Council. It could result in a decision being judicially reviewed and the planning permission being quashed by the Court or in a complaint of maladministration or an allegation of a breach of the Code of Conduct for Members being made to the Public Services Ombudsman for Wales.
- 1.6 If Members or Officers are in doubt about the application of this Code, they should seek advice from the Council's Monitoring Officer.

**2.0 Elected Members**

**2.1 Planning Committee Members**

Planning Committee Members should:

- act fairly and openly and avoid any actions which would give rise to an impression of bias
- avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.

It is a matter for each individual member to decide what constitutes inappropriate contact, however, it is important that any contact is not out of the ordinary and does not give the impression to others that the nature of the contact is inappropriate.

- approach each planning application/issue with an open mind
- not organise support or opposition to a planning application
- carefully weigh up all relevant planning issues before making a decision
- make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. In this respect, while Committee Members have a special duty to their Ward constituents, including those who did not vote for them, their over-riding duty is to the whole community.
- not decide how to vote on applications on the basis of a political 'whip', but on the planning merits of each case. (The view of the Ombudsman is that subjecting a planning decision to the discipline of the political whip could amount to maladministration)
- ensure that the reasons for their decisions are clearly stated
- With the coming into force of section 25 of the Localism Act 2011 if a member does or says anything prior to the planning committee considering the planning application, the member will not be judged to have a closed mind just because of what the member says or does. However, it is essential that the member when attending the planning committee takes into account all relevant planning considerations before making a decision on the planning application.

## **2.2 Members of the Planning Committee who are also Members of Community/Town Councils**

Membership of a Community/Town Council provides an opportunity to listen to local views and does not of itself give rise to a conflict of interest for a Planning Committee Member provided he/she complies with the requirements of this code of practice particularly when considering all the evidence and arguments presented to the Planning Committee.

If the Member is present at a meeting of the Community/Town Council (or one of its committees) when a planning application/matter is under consideration, he/she can play a full part including entering into discussion, asking questions and even voting.



However, regardless of the planning committee member's previous statements and actions, the member must make the decision at planning committee taking into account only relevant material planning considerations.

### **2.3 Local Ward Members who are not Members of Planning Committee**

Where an application is considered by Planning Committee Local Ward Members have the right to attend the Planning Committee (or Delegation Panel and site inspections by committee or panel) to speak on any planning matter (subject to declarations of interest) but may not vote. Such Members do not act in the decision-making role performed by planning committee members.

In appropriate circumstances the local ward member of an adjacent ward may also have the same rights as if they were the local ward member. Where an application has wider implications, the Chairman may exercise discretion and allow other members to address committee.

When attending meetings of the Planning Committee, Councillors who are not members of the Committee shall sit separately from Committee Members - whether or not they intend to address the Committee - and unless invited to do so by the Chairman shall not communicate with the Committee Members during the meeting.

Non-Committee Members can address the Committee after the officer has introduced the application and before any other speakers.

### **2.4 All Members**

Local Ward Members represent their electoral division and the County as a whole. Any member can make representations on planning applications. Where the local ward member in whose division the application is located wishes an application to be considered by Planning Committee or the Delegation Panel they shall inform officers in writing either by letter or email to that effect and give relevant material planning reasons for the request. The views of the Local Ward Member will be included in the application report. "Planning reasons" in relation to the Local Ward Member request means a brief statement outlining the material considerations that justify the application being considered by Planning Committee or the Delegation Panel.

Members shall not pressure Officers to make particular recommendations in reports. This will be a clear breach of the Code of Conduct for Members.

### **3.0 Officers**

3.1 The function of Officers is to carry out the administrative and executive functions in support of the planning process and to give professional advice to the public and Councillors.

3.2 The Chief Officer – Communities & Place makes decisions on the majority of planning applications under officer delegated powers and makes recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee of the Council. The local member in whose ward the application site is located can ask for any planning application to be referred to the Planning Committee for a decision rather than by officer delegated powers but must give material planning reasons for doing so. Some of the decisions under officer delegated powers

are exercised in consultation with the Delegation Panel.

- 3.3 In considering applications and in advising Members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, Planning Officers shall:
- act fairly and openly and avoid any actions which would give rise to an impression of bias
  - avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
  - carefully weigh up all relevant planning issues
  - make decisions purely on planning grounds having regard to the development plan and other material considerations
  - give professional, objective and consistent planning advice
  - provide a comprehensive and accurate analysis of the planning issues
  - Give a clear recommendation
  - carry out the decisions of the Committee
  - not be allocated a planning application to case manage if they are considered to have a personal interest in, or have a perceived personal interest in that application
  - abide by the Royal Town Planning Institute's Code of Professional Conduct.
- 3.4 The Council's Legal Officers advise Members on legal and procedural matters. In doing so, they must:
- act fairly and openly and avoid any actions which would give rise to an impression of bias
  - avoid inappropriate social contact with applicants and their agents, objectors and other interested parties
  - give professional, objective and consistent advice
  - carry out the decisions of the Committee so far as they relate to the completion of any legal agreement, institution/defence of proceedings etc.

#### **4.0 Operation of the Delegation System and the Role of the Delegation Panel**

- 4.1 The Council will operate a scheme of delegation of decisions to officers. The scheme defines matters to be determined by officers in consultation with the Delegation Panel (Chairman, Vice Chairman and Opposition Spokesperson of Planning Committee) and those wholly delegated to officers.
- 4.2 The published lists of applications and application details will not indicate whether an application is to be dealt with under delegated powers as the status of an application may change during the processing stages. In

addition, the Chief Officer or Head of Service may specify that an application be put to Committee if it involves controversial issues.

- 4.3 Panel meetings will be arranged regularly to consider applications that fall to be considered by the Delegation Panel. A list of applications or other matters that are proposed to be determined under delegated powers will be presented to the Delegation Panel. This will be known as the Delegation List. There should be a minimum of two members present at the Delegation Panel meeting.
- 4.4 The Delegation List shall specify the detail of the application with the officer recommendation.
- 4.5 There will be a report prepared on each application or other matter to be determined under officer delegated powers. The report shall include a description of the proposal, planning history, an adequate summary of objections/representations, relevant policies, a professional appraisal and recommendation. Any comments by Community or Town Councils, which are counter to the recommendation, should be specifically addressed in the professional appraisal, under the title: *'Response to Town/Community Council Representations'*.

The Relevant Officers: Officer recommendations and decisions on delegated decisions can only be authorised by:

- Chief Officer – Communities & Place
  - Head of Placemaking, Housing, Highways and Flood
  - Head of Planning
  - Development Services Manager (DSM)
  - Heritage Manager
  - Development Management (DM) Area Manager
- 4.6 The Delegation Panel cannot determine planning matters. Officers consult with the Panel on those matters identified in the Delegation Scheme. The Panel can require that an application or other matter is presented to Planning Committee and will identify any application or other matter that is not to be delegated. The DSM, DM Area Manager or where appropriate, the case officer shall present each application on the agenda to the Panel. The Panel Members may ask the officers questions for clarification. The Panel Members will then come to a view on the proposal and decide whether a) the application can be delegated to officers to determine as per the recommendation, or b) be referred to Planning Committee for determination.
  - 4.7 The meeting outcomes shall be delivered verbally at the meeting and the recording of this saved on the DM Team's IT system.
  - 4.8 Where the Council receives objections and officers recommend approval before an application is determined officers will:
    - Provide a copy of the officer evaluation to the Panel members, the local ward member and the local community or town council
    - The local member may attend the Panel but should contact the Chair and officers to agree and arrange this

- At the discretion of the Chair, the Panel may agree to meet an applicant and a third party on site where it is considered that certain planning issues warrant more detailed, direct discussion. This will, however, be the exception rather than the norm in that the officer report and presentation should normally be sufficient in setting out the planning issues and in coming to a balanced recommendation. If this circumstance applies, the applicant and third parties will be invited to make their views to the Panel Members separately before the Panel Members debate the proposal and make a decision

4.9 The Delegation Panel will also form a Design Panel to allow members to contribute to the design process of a development at an early stage. The Panel will convene as and when required and will consider applications for 10 or more dwellings or non-residential development of 1,000 sq.m. or more and other applications that may raise important design issues. The applicant/agent will be invited to attend as will any other relevant parties. The local ward member will be invited to attend. The role of the Design Panel will be to advise on design aspects of the application. The Design Panel will not give any indication on the outcome of the application.

## **5.0 Discussions Before and During Applications and on Enforcement Matters**

5.1 Discussion and negotiation are essential in the planning process as they can bring about improvements that can make an application acceptable or otherwise remedy problems. The Council encourages this discussion and negotiation.

5.2 Such discussions will normally take place at officer level and Members shall, wherever possible, refer requests for such advice to the Officers.

5.3 Where Members feel that a formal meeting would be useful in clarifying the issues, they should never seek to arrange that meeting themselves but should request the Head of Planning or the Development Services Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action. The meeting can be attended by the Delegation Panel depending on the scale and/or implications of the proposal and the Local Ward Member for the ward in which the application site is located (see par.4.8 above). Other Ward Members in the locality may attend where the application has wider implications.

5.4 Members may also attend presentations by applicants or developers but should either have an officer present or have made officers aware of it and officers have discussed it with Members or briefed them on it.

5.5 At all times Members should have regard to the Council's Code of Conduct for Members and the Planning Code of Practice.

5.6 All Officers taking part in discussions shall:

- make clear whether or not they are the decision maker for the purposes of the application/issue under discussion
- make clear that only personal and provisional views can be

expressed which will not bind the Council to reach a particular decision when determining an application

- express views in the context of the development plan and other material planning considerations
- be consistent in interpreting planning policies
- advise applicants and neighbours/objectors on procedural matters.

5.7 Occasionally local people or Community/Town Councils will arrange public meetings to discuss a current application and may invite the applicants, Members and Officers to attend. Given the need to avoid giving commitments and ensuring that an open mind on proposals is retained, Members of the Committee and Officers who attend such meetings shall use them for fact-finding, shall not express a final opinion for or against the proposal and shall otherwise act in accordance with the guidance in this Code.

## **6.0 Lobbying of Members of the Planning Committee**

6.1 Lobbying is the process by which applicants and their agents, neighbours, non-Committee Members and other interested parties seek to persuade Council Members on the Planning Committee to come to a particular decision. It is a legitimate part of the planning process for them to approach Members of the Planning Committee as these discussions can help Members to understand the issues and concerns. As stated in the Nolan Committee Third Report: "it is essential for the proper operation of the Planning system that local concerns are adequately ventilated".

6.2 In responding to approaches of this kind, Committee Members shall follow the nine principles outlined in Paragraph 2.1 above and may wish to make a record of the discussion, but may also:

- i) Explain the potentially conflicting position they are in if they express a final opinion on a proposal before consideration at the Committee/ by the Chief Officer
- ii) Explain the procedures by which representations can be made; that the public can speak at the Committee (subject to a number of conditions within the Public Speaking protocol being met) should the application come to the Committee for decision, and that a decision will be taken only when all relevant planning considerations have been taken into account
- iii) Explain the kinds of planning issues that the Council can take into account
- iv) Report issues raised to the Officers or direct the public to the Officers so that their views can be considered
- v) Advise the public to contact non-Committee Members who may be able to represent local views with less restraint.

6.3 Where a Committee Member feels that they have been unreasonably or

excessively lobbied on a particular proposal they shall make a declaration at Planning Committee on that application that they have been lobbied. However, that Member shall still be able to speak and vote on the application if the guidance in Section 2 is adhered to.

## **7.0 Planning Applications Submitted by Members, Community/Town Councils and Officers**

- 7.1 Where a Planning Application is submitted by or on behalf of the following:
- a. an Officer of the Council who works within the Planning Department or who has an involvement in the Planning Application process (except in any instance where the application has been submitted in their capacity as an employee of the Council)
  - b. an elected or co-opted Member of the Council; or
  - c. c.by an individual who has a close personal relationship with either of the above; the application shall be considered by Planning Committee.
- 7.2 The Member that is affected shall declare an interest and take no part in the decision.
- 7.3 The Officer that is affected shall record his/her interest and take no part in the decision.
- 7.4 Where a Community/Town Council submits a planning application, the County Council Members who are also Members of that Community/Town Council should disclose their interest and withdraw from further consideration of the matter.

## **8.0 Planning Applications Submitted by the Council**

- 8.1 It is critical that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.
- 8.2 All such proposals will be subject to the same administrative processes, including consultation, as all other applications with consideration being made in accordance with policy and any other material planning consideration.
- 8.3 The following applications will be considered under the Delegation Panel process:
- (i) where the application is by or on behalf of the Council and *there are no material planning objections to the proposed development*; and
  - (ii) the application is for development on Council-owned land or in which the Council has a direct interest and *there are no material planning objections to the proposed development*

Where any applications by or on behalf of the Council receive one or more material planning objections they shall be considered by Planning Committee.

- 8.4 Where a Member of Planning Committee has a Cabinet portfolio responsibility relating to an application, they shall declare that interest and not take part in the discussion or vote.

## **9.0 Officers' Reports to the Planning Committee**

- 9.1 All Planning matters considered by the Planning Committee will be the subject of full evaluation by officers and will include a recommendation. Such reports shall be comprehensive, but succinct in setting out the key planning (and legal) issues to be considered (in terms of the provisions of the development plan and other material planning considerations), the substance of any representations received and any relevant planning history.
- 9.2 Any comments by Community or Town Councils, which are counter to the recommendation, should be specifically addressed in the professional appraisal, under the title: *'Response to Town/Community Council Representations'*. Local Ward Member representations will also be addressed.
- 9.3 A summary of late correspondence received since the report was prepared will be made available to the Committee and dispatched electronically to Members by close of business the day before Planning Committee meets. Late correspondence will be accepted for consideration up to a deadline of noon on the Friday before the Planning Committee after which it will not normally be taken into account unless it raises material planning or legal issues that have not already been considered in the officer report. "Received" means received by Planning Department staff at County Hall by post or electronically.
- 9.4 When applications are presented to Planning Committee the Council's Democratic Services Team will publish the agenda on the Council's web site five clear working days before the meeting itself. In addition, the Planning Department will publish the officer evaluation for each application that is on the agenda on the respective electronic application file before the committee meeting itself to enable these to be viewed by the public.

## **10.0 Procedure at Planning Committee**

- 10.1 The following procedure will be followed at Planning Committee:
- The Chairman will identify the application to be considered
  - An officer will present a brief summary of the application and issues with the recommendation
  - The Local Member, if not a member of Planning Committee will be invited to speak for a maximum of 4 minutes by the Chairman. The Local Member, at the discretion of the Chairman may be allowed to use their additional 2 minute summing up time at this point, if this is requested.
  - The representative of the community or town council will then be invited to speak for a maximum of 4 minutes by the Chairman
  - The Chairman will then invite, in turn, the objector and/or supporter to speak for a maximum of 4 minutes each
  - The Chairman will invite the Applicant or Appointed Agent (if applicable) to

Speak for a maximum of 4 minutes.

- Time limits will normally be strictly adhered to although the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking
  - Speakers may speak only once
  - Committee Members may then raise questions with officers
  - Planning Committee Members will then debate the application, commencing with the Local Member if a member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.
  - Immediately before the application is put to the vote, the Local Member will be invited to sum up, speaking for no more than 2 minutes provided that they have not already used their 2 minute summing up time.
  - The community or town council representative or objector/supporter or applicant/agent may not take part in the Members' consideration of the application and may not ask questions unless invited to by the Chair
  - Where an objector or supporter or applicant/agent or community or town council has spoken on an application, no further speaking by or on behalf of that group will generally be permitted in the event that the application is considered again at a future meeting of the committee, however regard will be had to special circumstances that may justify an exception. The final decision lies with the Chairman.
  - The Chairman's decision regarding a procedural matter is final
  - When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly
  - When the motion has been seconded the Chairman shall identify the Members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded
  - Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application. Where Members attend remotely, they shall be on camera at all times during the consideration of the application to be eligible to vote.
  - Any Member who abstains from voting shall consider whether to give a reason for their abstention
  - The Legal Officer shall count the votes and announce the decision.
- 10.2 Public speaking at Planning Committee will be allowed strictly in accordance with the protocol attached in Appendix 1. The invitation to speak and the conduct of the meeting is at the discretion of the Chairman of Planning Committee.



## 11.0 **Planning Committee Site Inspections**

11.1 Committee site inspections are fact-finding exercises which allow the Planning Committee to make a more informed decision than would otherwise be possible from only reading the officer's report, listening to the officer presentation and considering the views expressed at the Committee meeting by interested parties.

11.2 The purpose of a site inspection is to clarify issues of fact and such visits should only be held where the Committee cannot make an informed decision without seeing the site for themselves and the inspection would have substantial benefit. Examples of this include:

- Where there are accusations that a plan is misleading
- Overlooking into other people's property
- Visual prominence
- Understanding the topography of the area

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

- purely policy matters or issues of principle are at issue
- the Member simply disagrees with the conclusion reached in the report
- the Member wishes to consider boundary or neighbour disputes
- issues of competition
- loss of property values
- any other issues which are not material planning considerations.

11.3 Members of Planning Committee will carry out the inspections with the local ward member being invited. The applicant (or agent) and objectors/supporters may attend but may only draw attention to matters of fact relating to the site, and at the Chairman's discretion. The community or town council shall be invited to attend the site inspection. An officer shall attend to advise on the application.

11.4 Members of Planning Committee shall not discuss the application, other than to clarify issues of fact, and shall not make a decision while on site.

11.5 If a Member finds it necessary to visit a site alone (perhaps because it was not possible to attend the Committee inspection), they shall view it from public vantage points only, seek to avoid discussion with interested parties, and, if discussion occurs, make it clear that a decision will be taken when it has been discussed by the Committee.

## 12.0 **Planning Committee Decisions Contrary to Officer Recommendation**

12.1 Where the Committee does not accept the recommendation made by the Officers the application shall be deferred to the following Planning Committee

- and brought back with reasons for refusal or conditions of approval as the case may be.
- 12.2 It is important that full clear and convincing reasons are set out when any planning decision is made. Where an application is determined in accordance with the officer recommendation the officer report meets this requirement. However, when Members determine an application against the officer recommendation the primary record of the debate are the minutes together with the recording of the livestream of the meeting. It is essential that Members' reasons are recorded and that the minutes of the meeting incorporate a full, clear and accurate statement of the reasons.
- 12.3 Where planning permission is refused contrary to officer advice, Members should be aware of the risk of an award of costs being made against the Council at a subsequent appeal. Advice on the award of costs is contained in the Welsh Government's 'Development Management Manual Section 12 Annex: Awards of Costs'. Of particular relevance to this protocol is the following advice in par. 3.9:

*“Local planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers or received from statutory consultees. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority.”*

### **13 Appeals against Council Decisions**

- 13.1 Officers will normally organise the administration of an appeal but in a case where there is a refusal of planning permission contrary to the officer recommendation and the appellant seeks an informal hearing or public inquiry Members will be expected to help formulate and to present the Council's case at the appeal. This is because under the Royal Town Planning Institute (RTPI) Code of Professional Practice planning officers who are members of the Institute must not make statements purporting to be their own, but which are contrary to their bona fide professional opinion. At a case determined by written representations a link to the live stream of the debate and the minutes will normally be sufficient to summarise the Council's case.
- 13.2 Once the appeal has been lodged then at the next available Planning Committee, individual Members will be nominated to represent the Council's case at the appeal. Other Members may attend to contribute or listen to the debate at the appeal hearing or inquiry. This is good practice in all appeals whether the decision was against officer advice or not. Members have an important role to play in appeals. The local ward member will be informed of the appeal. They and any other member may, within set deadlines, make written representations to the Inspector and may also appear at informal hearings or as a witness at inquiries. In doing so they should state whether they are acting in their capacity as the local Councillor or representing the Council's case.
- 13.3 Officers shall support Members who wish to attend the appeal and/or make representations and advise them on preparing and delivering evidence as well as on legal aspects. Where appropriate a nominated officer will be designated to assist and guide members before attending a hearing or inquiry and attend the hearing or inquiry with the member(s). However, the

officer will not be able to prepare or give evidence where that would be contrary to their professional views.

## **14 Community and Town Councils**

14.1 Officer reports will specifically address community and town council objections.

14.2 Community and town council clerks are notified by email when the agenda for Planning committee is published. It is the community or town council's responsibility to register to speak in cases where they wish to address committee Members.

14.3 Representatives of community and town councils will be permitted to attend planning committees and committee site inspections.

14.4 A representative will be permitted to address the Committee on an application, at the discretion of the Chairman and in accordance with the Protocol on Public Speaking.

14.5 Representatives will be expected to uphold the following principles:-

- To observe the National Code of Local Government Conduct, particularly in the context of declarable interests.
- Not to introduce information that is not a material planning consideration.

## **15.0 Member Training**

15.1 The Council has decided that all members of the Council, not just those Members of the Planning Committee, shall undertake training. No Member shall sit on Planning Committee unless they agree to undertake such training.

15.2 Members will be offered core training within three months of appointment to the Committee. This will cover planning procedures, the development plan and material planning considerations, probity and other subjects determined from time to time by Officers in consultation with the Members.

15.3 Other training will be available in the form of additional sessions such as seminars on specific subjects.

## **16.0 Review of Decisions**

16.1 To assess and improve the quality and consistency of decisions and thereby strengthen public confidence and assist in reviewing planning policy the Planning Committee will undertake an annual review of a sample of planning decisions made by the Committee. The review will include examples from a range of development types and shall include visits to the sites.

16.2 The Planning Committee will formally consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.

16.3 The outcome of appeals against the decisions of the Council will be reported regularly to Planning Committee so that any lessons can be learned. The outcome of enforcement cases and legal proceedings will also be reported

regularly to Members, including the local Member, to keep them abreast of progress.

- 16.4 The Delegation Panel may from time to time review decisions made under officer delegated powers.

## **Appendix 1**

### **Protocol on Public Speaking at Planning Committee**

Public speaking at Planning Committee will be allowed strictly in accordance with this protocol. You cannot demand to speak at the Committee as of right. The invitation to speak and the conduct of the meeting is at the discretion of the Chair of the Planning Committee and subject to the points set out below. The conventional protocol has been modified to allow public speaking via pre-recorded videos or to attend the meeting in person and address the Planning Committee.

Who Can Speak?

#### **Community and Town Councils**

Community and town councils can address Planning Committee via a pre-recorded video or in person at the meeting. Only elected members of community and town councils may speak. Representatives will be expected to uphold the following principles:

- (i) To observe the National Code of Local Government Conduct.
- (ii) Not to introduce information that is not:
  - consistent with the written representations of their council, or
  - part of an application, or
  - contained in the planning report or file.

When a town or community councillor has registered to speak in opposition to an application, the applicant or agent will be allowed the right of reply.

#### **Members of the Public**

Speaking will be limited to one member of the public opposing a development and one member of the public supporting a development. Where there is more than one person in opposition or support, the individuals or groups should work together to establish a spokesperson. The Chair of the Committee may exercise discretion to allow a second speaker, but only in exceptional cases where a major application generates divergent views within one 'side' of the argument (e.g. a superstore application where one spokesperson represents residents and another local retailers). Members of the public may appoint representatives to speak on their behalf.

Where no agreement is reached, the right to speak shall fall to the first person/organisation to register their request. When an objector has registered to speak the applicant or agent will be allowed the right of reply.

Speaking will be limited to applications where, at the date the Planning Committee agenda is published letters of objection/support or signatures on a petition have been submitted to the Council from 5 or more separate households/organisations (in this context organisations would not include community or town councils or statutory

consultees which have their own method of ensuring an appropriate application is considered at Committee).

The number of objectors and/or supporters will be clearly stated in the officer's report for the application contained in the published agenda.

The Chair may exercise discretion to allow speaking by members of the public where an application may significantly affect a sparse rural area but less than 5 letters of objection/support have been received.

### Applicants

Applicants or their appointed agents will have a right of response where members of the public or a community/town council, have registered to address committee in opposition to an application. This will also be via a pre-recorded video or in person at the Planning Committee meeting.

When is speaking permitted?

Public speaking will normally only be permitted on one occasion where applications are considered by Planning Committee. When applications are deferred and particularly when re-presented following a committee resolution to determine an application contrary to officer advice, public speaking will not normally be permitted. Regard will however be had to special circumstances on applications that may justify an exception. The final decision lies with the Chair.

### Registering Requests to Speak

Speakers must register their request to speak as soon as possible, between 12 noon on the Tuesday and 12 noon on the Friday before the Committee. To register a request to speak, objectors/supporters must first have made written representations on the application.

Anyone wishing to speak must notify the Council's Democratic Services Officers of their request by calling 01633 644219 or by email to [registertospeak@monmouthshire.gov.uk](mailto:registertospeak@monmouthshire.gov.uk)

Please leave a daytime telephone number. Any requests to speak that are emailed through will be acknowledged prior to the deadline for registering to speak. If you do not receive an acknowledgement before the deadline, please contact Democratic Services on 01633 644219 to check that your registration has been received.

Parties are welcome to address the Planning Committee in English or Welsh, however if speakers wish to use the Welsh language, they are requested to make this clear when registering to speak and are asked to give at least 5 working days' notice to allow the Council the time to procure a simultaneous translator.

Applicants/agents and objectors/supporters are advised to stay in contact with the case officer regarding progress on the application. It is the responsibility of those wishing to speak to check when the application is to be considered by Planning Committee by contacting the Planning Office, which will be able to provide details of the likely date on which the application will be heard. The procedure for registering the request to speak is set out above.

The Council will maintain a list of persons wishing to speak at Planning Committee.

Once the request to speak has been registered by the Council the speaker, if not attending in person, must submit their pre-recorded video by midday on Monday before the Committee meeting. The video content must comply with the terms below and be no more than 4 minutes in duration.

If the third party does not wish to record a video, they will need to submit a script to the Council by the deadline above, that will be read out by an officer to the Committee Members at the meeting. The script shall contain no more than 500 words and shall also comply with the terms below. Speakers will also have the option to attend the meeting in person and addressing Planning Committee.

#### Content of the Speeches

Comments by the representative of the town/community council or objector, supporter or applicant/agent should be limited to matters raised in their original representations and be relevant planning issues. These include:

- Relevant national and local planning policies
- Appearance and character of the development, layout and density
- Traffic generation, highway safety and parking/servicing;
- Overshadowing, overlooking, noise disturbance, odours or other loss of amenity.

Speakers should avoid referring to matters outside the remit of the Planning Committee, such as:

- Boundary disputes, covenants and other property rights
- Personal remarks (e.g. Applicant's motives or actions to date or issues about members or officers)
- Rights to views or devaluation of property.

#### Procedure at the Planning Committee Meeting

The procedure for dealing with public speaking is set out below:

- The Chairman will identify the application to be considered
- An officer will present a brief summary of the application and issues with the recommendation
- The Local Member, if not a member of Planning Committee will be invited to speak for a maximum of 4 minutes by the Chairman. The Local Member, at the discretion of the Chairman may be allowed to use their additional 2 minute summing up time at this point, if this is requested.
- The representative of the community or town council will then be invited to speak for a maximum of 4 minutes by the Chairman
- The Chairman will then invite, in turn, the objector and/or supporter to speak for a maximum of 4 minutes each

- The Chairman will invite the Applicant or Appointed Agent (if applicable) to speak for a maximum of 4 minutes.
- Time limits will normally be strictly adhered to although the Chair will have discretion to amend the time having regard to the circumstances of the application or those speaking
- Speakers may speak only once
- Committee Members may then raise questions with officers
- Planning Committee Members will then debate the application, commencing with the Local Member if a member of Planning Committee. Officers will not take any further questions unless it is to advise Members about a procedural or legal issue, or where they consider Members are deviating from material planning considerations.
- Immediately before the application is put to the vote, the Local Member will be invited to sum up, speaking for no more than 2 minutes provided that they have not already used their 2 minute summing up time.
- The community or town council representative or objector/supporter or applicant/agent may not take part in the Members' consideration of the application and may not ask questions unless invited to by the Chair
- Where an objector or supporter or applicant/agent or community or town council has spoken on an application, no further speaking by or on behalf of that group will generally be permitted in the event that the application is considered again at a future meeting of the committee, however regard will be had to special circumstances that may justify an exception. The final decision lies with the Chairman.
- The Chairman's decision regarding a procedural matter is final
- When proposing a motion either to accept the officer recommendation or to make an amendment the Member proposing the motion shall state the motion clearly
- When the motion has been seconded the Chairman shall identify the Members who proposed and seconded the motion and repeat the motion proposed. The names of the proposer and seconder shall be recorded
- Members shall decline to vote in relation to any planning application unless they have been present in the meeting of the Planning Committee throughout the full presentation and consideration of that application. Where Members attend remotely, they shall be on camera at all times during the consideration of the application to be eligible to vote.
- Any Member who abstains from voting shall consider whether to give a reason for their abstention
- The Legal Officer shall count the votes and announce the decision.





<b>Subject:</b>	<b>Adoption of Procedure for dealing with referrals from the Public Services Ombudsman for Wales</b>
<b>Meeting:</b>	<b>Standards Committee</b>
<b>Date:</b>	<b>10<sup>th</sup> June 2024</b>
<b>Divisions/Wards Affected:</b>	<b>All</b>

## 1. PURPOSE

- 1.1 For the Standards Committee to adopt a procedure to deal with investigation reports referred to it by the Public Services Ombudsman for Wales (PSOW).

## 2. RECOMMENDATIONS

- 2.1 That the Standards Committee adopts the procedure for dealing with referrals from the Public Services Ombudsman for Wales, attached to this report as Appendix 1;

## 3. KEY ISSUES

- 3.1 Under Part 3 of the Local Government Act 2000 ("the Act") on receiving a complaint, the PSOW has powers to investigate the behaviour of elected and co-opted members of Monmouthshire County Council and town/community councils within the boundary of the County of Monmouthshire.
- 3.2 Following the commencement of an investigation:
- (a) the PSOW may cease such an investigation and refer the matter to the Council's Monitoring Officer (under section 70(4) of the Act). The Monitoring Officer must then investigate the matter and report on the conclusion of his/her investigation to the Standards Committee; or
  - (b) more usually, the PSOW will undertake its own investigation and then refer the matters which are the subject of the investigation to the Monitoring Officer (under section 71(2) of the Act), for reporting to the Standards Committee for them to make a determination as to whether or not there has been a breach of the Code of Conduct, and if so, whether or not a sanction should be imposed.
- 3.3 The Standards Committee ("the Committee") is required to have a procedure in place for dealing with such referrals as set out above. A draft procedure is attached to this report as Appendix 1. If adopted, the functions under this procedure may be delegated to a sub-committee of the Standards Committee established in accordance with this procedure.

#### **4. REASONS**

- 4.1 To ensure the Committee has a procedure in place to deal with referrals from the PSOW under Part 3 of the Act.

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

- 5.1 Co-opted standards committee members are entitled to expenses amounting to £210 per day (over 4 hours) and £105 per half day (up to 4 hours). The chair of the Committee is entitled to £268 per day (over 4 hours) and £134 per half day (up to 4 hours).

#### **6. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING)**

- 6.1 No implications.

#### **7. BACKGROUND PAPERS**

Appendix 1 – Procedure for dealing with referrals from the Public Services Ombudsman for Wales

#### **AUTHOR:**

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**MONMOUTHSHIRE COUNTY COUNCIL**

**STANDARDS COMMITTEE**

**PROCEDURE FOR DEALING WITH REFERRALS FROM THE OMBUDSMAN**

**1. Introduction**

- 1.1. The Standards Committee ("the Committee") is required to have a procedure in place for dealing with hearings in respect of an allegation that a County Councillor, Community Councillor or co-opted member of any committee or sub-committee in the administrative area of Monmouthshire County Council has failed to comply with the Code of Conduct adopted by his/her respective Authority.
- 1.2. A hearing under this procedure may be required to determine a complaint referred to the Committee by the Ombudsman under Part 3 of the Local Government Act 2000 ("the Act"). This may occur as the result of either:
  - 1.2.1. The Ombudsman ceasing an investigation and referring the matter to the Council's Monitoring Officer (under section 70(4) of the Act). The Monitoring Officer must then investigate the matter and report on the conclusion of his/her investigation to the Standards Committee; or
  - 1.2.2. The Ombudsman undertaking an investigation and then referring the matters which are the subject of the investigation to the Monitoring Officer (under section 71(2) of the Act), for reporting to the Standards Committee.
- 1.3. This procedure should be used in respect of both instances of Ombudsman referrals set out above.

**2. Interpretation**

- 2.1. "Councillor" means a member of the County Council or a member of the Community Council or a co-opted member of any committee or sub-committee who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. Unless the context requires otherwise it also includes the Councillor's nominated representative;
- 2.2. "Investigating Officer" means the Public Services Ombudsman for Wales and includes his/her nominated representative. In the case of matters that have been referred to the Monitoring Officer for investigation, references to the "Investigating Officer", means the Monitoring Officer, or a person appointed by the Monitoring Officer to undertake the investigation, and his/her nominated representative;
- 2.3. "Legal Advisor" means the person responsible for providing legal advice to the Panel;
- 2.4. "Panel" means the Standards Committee or a sub-committee established to conduct a hearing under this procedure.

**3. Composition of the Panel**

- 3.1. The Committee may delegate the functions under this procedure to a sub-committee. Any such sub-committee established for this purpose shall be composed of three members of the Committee, at least two of whom must be independent members of the Committee.
- 3.2. For complaints about a member of a Community Council, the Panel shall include the Community Council representative on the Committee, unless the complaint concerns a member of his/her own community council.
- 3.3. Where the Chair of the Committee is not a member of the Panel, then the Panel shall elect one of the independent members to serve as Chair for each meeting.
- 3.4. Except for any decisions that may be expressed in this procedure to be taken by the Chair, any decision of the Panel shall be made on the basis of a simple majority vote.

#### **4. Initial Determination**

- 4.1. Following receipt of a report and any recommendations from the Monitoring Officer, or a report from the Ombudsman, together with any recommendations of the Monitoring Officer, the Panel must make an initial determination that either:
  - 4.1.1. there is no evidence of any failure to comply with the Code of Conduct of the relevant Authority concerned (and must then notify any person who is the subject of the investigation, any person who made any allegation which gave rise to the investigation and the Public Services Ombudsman for Wales accordingly); or
  - 4.1.2. there is evidence of a potential failure to comply with the Code of Conduct and any person who is the subject of the investigation should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the relevant Authority's Code of Conduct.
- 4.2. If the Panel makes a determination under paragraph 4.1.2 above, the Panel will instruct the Monitoring Officer to make arrangements for a hearing in accordance with the rules below.

#### **5. Prior to the Hearing**

- 5.1. The Investigating Officer shall set out in writing the results of their investigation, including copies of all written evidence the report relies upon in an Investigation Report; and send copies of the Investigation Report to the Committee and to the Councillor.
- 5.2. The Panel shall write to the Councillor to notify him/her of the Panel's initial determination (made under paragraph 4.1 above); provide information about the possible sanctions open to the hearing if a breach of the Code of Conduct is found; and invite a written response to the findings of the Investigation Report to be submitted to the Panel within three weeks from receipt of the Panel's notification letter.

- 5.3. The Councillor shall be informed that his/her written response need not set out the Councillor's position in full, but it should:
- 5.3.1. indicate whether or not the Councillor will be represented and if so, by whom;
  - 5.3.2. indicate whether the Councillor intends to apply to the Panel to have the press and public excluded from the hearing and any grounds for doing so;
  - 5.3.3. indicate all areas of the Investigation Report that the Councillor intends to dispute, with brief reasoning;
  - 5.3.4. attach all written evidence the Councillor intends to rely upon;
  - 5.3.5. indicate any witnesses the Councillor wishes to call (which may include any witnesses referred to in the Investigation Report) and brief reasons for doing so (if any); and
  - 5.3.6. indicate any dates or times when the Councillor, the representative and any witnesses they wish to call will be unavailable to attend a hearing.
- 5.4. The Panel shall also write to the Investigating Officer to notify him/her of the Panel's initial determination (made under paragraph 4.1.2 above), and to:
- 5.4.1. request that the Investigating Officer should attend the hearing to present the Investigation Report and explain any matters in it, if the Panel considers it appropriate or to ask if the Investigating Officer wishes to attend the hearing for this purpose;
  - 5.4.2. ask if there are any dates or times when the Investigating Officer will be unavailable to attend a hearing; and
  - 5.4.3. ask the Investigating Officer to indicate any witnesses he/she wishes to call and brief reasons for doing so (if any).
- 5.5. Following receipt of the Councillor's and the Investigating Officer's written response, the Monitoring Officer shall write to the Investigating Officer and the Councillor confirming the following:
- 5.5.1. the date, time and location set for the hearing (having taken reasonable steps to accommodate the availability of the Councillor and the Investigating Officer);
  - 5.5.2. whether the witnesses the Investigating Officer and the Councillor wishes to call will be allowed (giving reasons and allowing opportunity to respond if any witnesses are not to be allowed); and
  - 5.5.3. any other steps the Panel may in its discretion require prior to the hearing.

## **6. The Role of the Legal Advisor**

- 6.1. The Monitoring Officer, Deputy Monitoring Officer or another legal officer shall be in attendance to advise the Panel ("the Legal Advisor").

6.2. If the Monitoring Officer has investigated a complaint, he/she (or a nominated representative) will attend a hearing in his/her role as the person who has investigated the complaint and will not be present to provide legal advice to the Committee.

## **7. Powers of the Panel**

7.1. The Chair, having taken legal advice from the Legal Advisor, may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

7.2. The Chair, having taken legal advice from the Legal Advisor, may also agree to vary this procedure in the interests of ensuring a fair and efficient hearing. Such power will include, for the avoidance of doubt the power to combine stages 1 and 2 of the hearing set out within this procedure.

7.3. The members of the Panel may question anyone taking part in the proceedings on a point they raise in their representations or to seek clarification of views on points raised by others appearing at the hearing. They may also request advice from the Legal Advisor.

7.4. The Panel may also require the attendance of a particular witness or the production of specific documentation where it appears that such additional material may resolve a dispute of fact.

## **8. Representation**

8.1. The Councillor and the Investigating Officer may be represented or accompanied during the hearing by Counsel or a Solicitor, or any other person he or she desires.

8.2. The Councillor and the Investigating Officer are responsible for meeting the cost of any representation.

## **9. Legal Advice**

9.1. The Panel may take legal advice from its Legal Advisor at any time before or during the hearing or while the outcome is being considered.

## **10. Introductions at the Hearing**

10.1. At the start of the hearing, the Chair shall introduce each of the Members of the Panel and everyone involved in the hearing.

## **11. Preliminary Procedural Issues**

11.1. The Chair shall then explain the procedure which the Panel is to follow in its conduct of the hearing, including whether stages 1 and 2 will be combined.

11.2. The Panel should then resolve any issues or disagreements about how the hearing should continue, including whether all or part of the hearing should be heard without the attendance of the public.



- 11.3.If either party want to adduce further information to the Panel they should make an application at this stage.
- 11.4.The Panel retains sole discretion whether to permit the late introduction of information but shall always seek to ensure that the fairness of the hearing is not prejudiced and all parties are able to present the evidence which is relevant to the matters before the Panel.
- 11.5.If the Councillor fails to attend the hearing, the Panel may, depending on the reason for such non-attendance, continue with the proceedings or adjourn the hearing to another date to give the Councillor a last opportunity to make representations.

## **12. Stage 1 — Formal Findings of Fact**

- 12.1. After dealing with any preliminary issues, the Panel should then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.
- 12.2.If there is no disagreement about the facts, the Panel can move on to the next stage of the hearing.
- 12.3.If there is a disagreement about the facts, the Investigating Officer, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report (for the avoidance of doubt, the Investigating Officer may choose to invite the Panel to consider the evidence given in the Investigation Report and not make any further submission). With the Panel's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Panel may allow the Councillor an opportunity to challenge or comment upon any evidence put forward by any witness called by the Investigating Officer.
- 12.4.The Councillor should then have the opportunity to make representations to support his/her version of the facts and with the Panel's permission, to call any necessary witnesses to give evidence.
- 12.5.At any time, a Member of the Panel may question any of the people involved or any of the witnesses. The Panel may allow the Investigating Officer an opportunity to challenge or comment upon any evidence put forward by a witness called by the Councillor.
- 12.6.If the Councillor disagrees with any relevant fact in the Investigation Report, without having given prior notice of the disagreement, he/she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Panel will consider whether or not it would be in the public interest to continue in his/her absence. After considering the Councillor's explanation for not raising the issue at an earlier stage, the Panel may then:
- 12.6.1. continue with the hearing, relying on the information in the Investigation Report;
- 12.6.2. allow the Councillor to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or

12.6.3. adjourn the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present, if he or she is not already present.

12.7. The Panel shall then retire to consider their decision. Depending upon the number of persons attending the hearing, the Panel will either move to another room to deliberate on the representations and evidence in private or request the parties to leave the room during the deliberations.

12.8. Once the decision is reached and the meeting re-convened, the Chair will announce the Panel's findings of fact.

### **13. Stage 2 — Decision and Sanction**

13.1. The Panel then needs to consider whether or not, based on the facts the Councillor has breached the Code of Conduct. It should be noted that this stage of the hearing does not provide either the Councillor or the Investigating Officer an opportunity to re-examine the facts of the case in question.

13.2. The Councillor should be invited to give relevant reasons why the Panel should not decide that he or she has failed to follow the Code.

13.3. The Panel should then consider any verbal or written representations from the Investigating Officer.

13.4. The Panel may, at any time, question anyone involved on any point they raise in their representations. The Councillor should be invited to make any final relevant points. The Panel will then retire consider the representations and make its decision as to whether or not the Member has breached the Code of Conduct.

13.5. Once the Panel had come to a decision the hearing will be re-convened and the Chair will announce the Panel's decision, including any sanction the Panel has decided to impose.

### **14. Sanctions**

14.1. If it is found that the Councillor has breached the Code of Conduct the Panel will determine whether or not a sanction should be imposed. The options open to the Panel are:

14.1.1. that no action needs to be taken in respect of the breach;

14.1.2. that the Councillor should be censured;

14.1.3. that the Councillor should be suspended or partially suspended from being a Member or Co-opted Member of the Authority in question, for a period not exceeding six months.

14.2. Alternatively, the Panel may request the Councillor to take any remedial action it considers to be reasonable and proportionate in the circumstances, for example to

apologise or attend training, and it may adjourn a decision on sanction to allow time for the requested remedial action to be taken prior to a decision on sanction.

## **15. Written Decision**

15.1. The Panel will announce its decision on the day and provide a short written confirmation of its decision on that day. It will issue a full written decision, with reasons, within five working days of the end of the hearing and formally notify all parties (“the Decision Notification”)

## **16. Appeals**

16.1. Where the Panel determines that a person has breached the Code of Conduct, that person may seek permission to appeal against the determination to an Appeals Tribunal drawn from the Adjudication Panel for Wales. The grounds and procedure for making such an application are set out in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

16.2. Any such application must be instigated by giving notice in writing to the President of the Adjudication Panel for Wales within 21 days of receiving notification of the Panel’s determination (the Decision Notification).

## **17. Publication**

17.1. The Panel will produce a report on the outcome of the investigation and send a copy of this report to all parties, the Ombudsman and the Monitoring Officer within 14 days after the period for an appeal or after the appeal process has been completed, whichever is the later.

17.2. Upon receipt of the Panel’s report, the Monitoring Officer shall arrange for the report to be published on Monmouthshire County Council’s website for a period of 21 days, make copies of the report publicly available upon request and publish a notice in a newspaper circulating in the area to explain the availability of the report.

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