

BRITHDIR, LLANFACHRETH & RHYDYMAIN COMMUNITY COUNCIL

MEMBERS CODE OF CONDUCT.

INTRODUCTION.

The Conduct of Members (Principles) (Wales) Order 2001, along with Co-operative and Community Benefit Societies and Credit Unions 2010 (Consequential Amendments) Regulations 2014, and Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 (No. 2016/84), sets out the principles which are to govern the conduct of members of a relevant council in Wales. They are:

Selflessness

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

Honesty

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

Integrity and Propriety

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

Duty to Uphold the Law

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

Stewardship

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

Objectivity in Decision-making

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

Equality and Respect

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

Openness

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

Accountability

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

Leadership

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

PART 1 INTERPRETATION

1.(1) In this code –

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

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

“meeting” (*“cyfarfod”*) means any meeting –

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant council or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with Regulation 8 of the Local Government (Committees and Political Groups) Regulations (1990(1), and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

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

“relevant authority” (*“awdurdod perthnasol”*) means–

- (a) a county council,
- (b) a county borough council,
- (d) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995(3);

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

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

2) In relation to a community council—

(a) “proper officer” (“*swyddog priodol*”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) “standards committee” (“*pwyllgor safonau*”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

PART 2

GENERAL PROVISION.

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

(a) whenever you conduct the business, or are present at a meeting, of your council;

(b) whenever you act, claim or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your council; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

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

3. Where you are elected, appointed or nominated by your council to serve -

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

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

4. You must -

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

(b) show respect and consideration for others;

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

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

5. You must not -

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

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

6. (1) You must-

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

(b) report, whether through your council’s confidential reporting procedure or direct to the proper council, any conduct by another member or anyone who works

for, or on behalf of, your council which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty).

(c) report to the Public Services Ombudsman for Wales and to your council's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

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

(2) You must comply with any request of your council's monitoring officer, or the Public

Services Ombudsman in Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not -

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

(b) use, or authorise others to use, the resources of your council -

(i) imprudently;

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

(iii) unlawfully;

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

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must -

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

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

(ii) the council's chief finance officer

(iii) the council's monitoring officer

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

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

9. You must -

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

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

PART 3 INTERESTS

Personal Interests.

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

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

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

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

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

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

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

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

(iv) above;

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

(vii) any land where the landlord is your council and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above.

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

(ix) any

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

(bb) company industrial and provident society, charity, or body directed to charitable purposes;

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

(dd) trade union or professional association; or

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

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

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

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

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

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

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

- (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management, to a greater extent than the majority of -
 - (aa) in the case of a council with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the council's area

Disclosure of Personal Interests.

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

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

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

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

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

(4) You must, in respect of a personal interest not previously disclosed before or immediately after the close of a meeting whether the disclosure is made pursuant to subparagraph 11(1), give written notification to your council in accordance with any requirements identified by your council's monitoring officer from time to time but, as a minimum containing -

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature.

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

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in

accordance with this code since the last date on which you were elected, appointed or nominated as a member of your council.

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

Prejudicial Interests

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

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

(a) relates to -

(i) another relevant council of which you are also a member;

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

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

(iv) your role as a school governor (where not appointed or nominated by your council), unless it relates particularly to the school of which you are a governor;

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

(b) relates to -

(i) the housing functions of your council where you hold a tenancy or lease with your council, provided that you do not have arrears of rent with your council of more than two months; and provided that those functions do not relate particularly to your tenancy or lease;

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

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

(iv) the functions of your council in respect of an allowance or payment made under section 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989, or an allowance or payment under section 100 of the Local Government Act 2000.

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

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

Overview and Scrutiny Committees

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

- (a) that business relates to a decision made (whether implemented or not) or action taken by your council's executive, board or another of your council's committees, subcommittees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests.

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

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

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

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

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

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

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

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if -

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

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

- (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to your council containing -
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.
- (4) Where you have a prejudicial interest and are making written or oral representations to your council in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your council within 14 days of making the representation.

PART 4

REGISTER OF MEMBERS' INTERESTS

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

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

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

(b) your election or appointment to office (if that is later), register your financial interests, where they fall within a category mentioned in paragraph 10(2)(a) in your council's register of members' interests by providing written notification to your council's monitoring officer.

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

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

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

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

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

Sensitive information.

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

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

sensitive information, notify your council's monitoring officer asking that the information be included in your council's register of members' interests.

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

Registration of Gifts and Hospitality.

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.