

Raglan Community Council Code of Conduct

Introduction:-

Section 71 of the Local Government Act 2000; Local Government Investigations (Functions of Monitoring Officers and Community Councils Standards Committees) (Wales) Regulations 2001; Local Government Investigations (Functions of Monitoring Officers and Community Councils Standards Committees) (Amendment) (Wales) Regulations 2009, confirms the procedures relating to allegations made against members of the County Council or members of a Community or Town Council .

An allegation that a member has breached the Council's code of conduct must be sent to the Public Services Ombudsman for Wales ("*the Ombudsman*") for initial investigation. The Ombudsman, if he feels there is any merit in the allegation can:-

- 1) Investigate, and send his report to the County Council's Monitoring Officer and Councils Standards Committee.
- 2) refer the matter to the County Council 's Monitoring Officer for investigation.
- 3) Investigate and refer the matter to the Adjudication Panel for Wales (this is in respect of what he sees as the more serious cases).

This Code is intended to guide the procedures by Raglan Community Council, ("Members") and the Officers of the Council to deal with all matters, and set a standard of probity and conduct expected of them. Raglan Community Council members must seek to adopt best practice in its administration process.

It must recognise that the general public expects the members from Raglan Community Council to subscribe to the principles of openness, honesty, integrity and propriety, hold up the law, equality and respect, accountability, fairness, and consistency. Raglan Community Council Members have a key role in ensuring that these principles are followed and the Raglan Community Council has stated that the Council must be fair and open. Elected Members are critically important in arbitrating between competing arguments.

A breach of the code, will not usually amount to a breach of criminal law, but may adversely affect the standing and reputation of the Council and its members. It could result in any decision being judicially reviewed and being quashed by a Court of Law or in a complaint of maladministration or an allegation of a breach of the Code of Conduct.

A complaint that a member of Raglan Community Council has acted in breach of this Code of Conduct amended in May 2015, may also be considered under the Council's procedure for dealing with breach of any protocol set out in the amended Code.

Part 1

General provisions

Interpretation

- 1.**—(1) This Code applies to All Councillors as a member of Raglan Community Council ;
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (see Annexure to this Code).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:— “meeting” means any meeting of:—
- (a) Raglan Community Council at any Council meeting or members representing the Council at any other meeting;
 - (b) Any of the Community Councils committees or sub-committees, joint committees or joint sub-committees; “member” includes a co-opted member and an appointed member.
- (5) References to an council's monitoring officer and an council's Community Councils Standards Committee shall be read, respectively, as references to the monitoring officer and the Community Councils Standards Committee of the unitary County Council which has functions in relation to the Community Council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

- 2.**—(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
- (a) conduct the business of Raglan Community Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, or claim to act or give the impression you are acting as a representative of Raglan Community Council , and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of Raglan Community Council :-

- (a) on another relevant council, you must, when acting for that other council, comply with that other council's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with Raglan Community Council code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (c) all elected members should attend the relevant training relating to the Community Councils Code of Conduct within 12 weeks, following the signing of the member's declaration.

General obligations

3.

(1) You must treat others with respect.

(2) You must not:—

- (a) do anything which may cause Raglan Community Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006⁽¹⁾);
- (b) bully any person; You must not use any bullying behaviour or harass any person including other Councillors, Council officers or members of the public.

Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

This can be contrasted with the legitimate challenges which a member can make in questioning policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow Councillors and officers as to why they hold their views.

The ombudsman will always consider allegations of bullying and harassment from the perspective of the alleged victim. The question to be answered is whether the individual was reasonably entitled to believe they were being bullied rather than whether the person accused of bullying thought that he or she was doing so. Bullying is often carried out face to face, but increasingly, it can be carried out in print or using e-media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances but the relative seniority of the officer will be a factor in some cases. Very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that the ombudsman condones the bullying of senior officers, only that the greater the power differences between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.

It is also evident that there are appropriate channels for expressing concern about the performance of an officer, and doing so in the context of a meeting with others present, especially if they are from outside bodies or are members of the public, is not acceptable.

Neither is it acceptable to do so in the media, in your own publications or using blogs, tweets, Facebook or other electronic means. It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

- (c) intimidate or attempt to intimidate any person who is or is likely to be: —
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her council's code of conduct; or
- (d) Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.

You must not: — compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, your council. You should not approach anyone who works for, or on behalf of, the council with a view to pressurising them to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision or threaten someone if they are not minded to act in a particular way. As well as avoiding pressurising officers in person, you need to avoid doing so in writing, using electronic media or in the press.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

If a member develops a close personal relationship with an officer, this becomes a personal and possibly a prejudicial interest under the Code. The ombudsman would encourage you to adhere to any protocol developed by your council that deals with relationships between members and officers.

4) You must not:-

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

- i) you have the consent of a person authorised to give it;
- ii) you are required by law to do so;
- iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;
or
- iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the council; or

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

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or council into disrepute.

6. You:—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (c) must, when using or authorising the use by others of the resources of your council:—
 - (i) act in accordance with Raglan Community Council. reasonable requirements; and
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes). Must have regard to any applicable Local Council Code of Publicity made under the Local Government Act 1986.

7. Paragraph 7 does not apply to this Community Council.

Part 2

Interests

Personal interests

8.—(1) While you are carrying out your duties, you need to decide if you have a personal interest, and if so, whether you need to disclose it. Most members know that you need to disclose personal interests at meetings, but as you will read below, there are other occasions, such as when speaking to your Council Clerk about the matter concerned, when you may also need to do so.

You have a personal interest in any business of your Council, including when making a decision, where it relates to or is likely to affect:

You have a personal interest in any business of Raglan Community Council, where either—

(a) it relates to or is likely to affect—

- i) anybody of which you are a member or in a position of general control or management and to which you are appointed or nominated by Raglan Community Council ;
- ii) anybody—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- iii) any employment or business carried on by you;
- iv) any person or body who employs or has appointed you;
- v) any person or body, other than a relevant council, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- vi) any person or body who has a place of business or land in the Community Council s area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- vii) any contract for goods, services or works made between Raglan Community Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph
- viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.00;
- ix) any land in the Community Council s area in which you have a beneficial interest;

- x) any land where the landlord is Raglan Community Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - xi) any land in the Community Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
- i) (in the case of authorities with electoral divisions or wards) other Council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - ii) (in all other cases) other Council tax payers, ratepayers or inhabitants of Community Council's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9—

(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of Raglan Community Council and you attend a meeting of Raglan Community Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of Raglan Community Council which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

Where you have a personal interest in any business of the council of the type mentioned in paragraph 8(1) (a) (viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(4) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your council's register of members' interests, you must indicate to the

meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

Prejudicial interest generally

10.—(1) Subject to sub-paragraph (2), where you have a personal interest in any business of Raglan Community Council, you also have a prejudicial interest in that business where 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. You do not have a prejudicial interest in any business of

(2) Raglan Community Council where that business:—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of Raglan Community Council, in respect of—

- i) this sub-paragraph does not apply to this Raglan Community Council;
- ii) this sub-paragraph does not apply to this Raglan Community Council
- iii) 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;
- iv) an allowance, payment or indemnity given to members;
- v) any ceremonial honour given to members; and
- vi) setting Council tax or a precept under the Local Government Finance Act 1992.

11. Paragraph 11 does not apply to this Community Council.

Effect of prejudicial interests on participation

12—(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your council:—

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your council's Community Councils Standards Committee; and
- (b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of Raglan Community Council , 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.

Part 3

Registration of members' interests

13-(1) Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by or applied to Raglan Community Council ; or
- (b) your election or appointment to office (where that is later),

register in Raglan Community Council register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your council's monitoring officer.

(3) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your council's monitoring officer.

Declaration form attached as an appendix:

Sensitive information

14. 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 that interest under paragraph 13.

(a) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under 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.

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

Part 4

Allegations of breaches of the code of conduct

a) on receipt of a notification that there has been an alleged breach of the code of conduct the Proper Officer shall refer it to a committee known as the Community Councils Standards Committee.

b) where the notification relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of the Community Councils Standards Committee of that fact, who, upon receipt of such notification, shall nominate a person to assume the duties of the Proper Officer set out in the remainder of this standing order, who shall continue to act in respect of that matter as such until the complaint is resolved.

c) where a notification relates to a complaint made by an employee (not being the Proper Officer) the Proper Officer shall ensure that the employee in question does not deal with any aspect of the complaint.

d) The subject matter of notifications shall be confidential and, insofar as it is possible to do so by law, the Council (including the Proper Officer and the Chairman of the Community Councils Standards Committee shall take the steps set out below, together with other steps considered necessary, to maintain confidentiality.

(i) Draft the summonses and agendas in such a way that the identity and subject matter of the complaint are not disclosed.

(ii) Ensure that any background papers containing the information set out in standing order above are not made public.

(iii) Ensure that the public and press are excluded from meetings as appropriate.

(iv) Ensure that the minutes of meetings preserve confidentiality

.

(v) Consider any liaison that may be required with the person or body with statutory responsibility for the investigation of the matter.

e) Standing order above should not be taken to prohibit the Council (whether through the Proper Officer or the Chairman of the Community Councils Standards Committee or otherwise) from disclosing information to members and officers of the Council or to other persons where such disclosure is necessary to deal with the complaint or is required by law.

f) The Community Councils Standards Committee shall have the power to:

(i) seek documentary and other evidence from the person or body with statutory responsibility for investigation of the matter;

(ii) seek and share information relevant to the complaint;

(iii) grant the member involved a financial indemnity in respect of legal costs, which shall be in accordance with the law and subject to approval by a meeting of the full Council.

g) Reference to the standing orders notification shall be taken to refer to a communication of any kind which relates to a breach or an alleged breach of the code of conduct by a Councillor.'

Any breach or an alleged breach of the code of conduct by a Councillor must be referred to the Public Ombudsman for Wales who will provide advice and guidance as to how the matter should be dealt with.

The above code of conduct was approved by Members of Raglan Community Council in May 2015 and adopted by the Community Council's meeting in May 2015

Proposed by _____

Seconded by _____

Signed by Chairman

Chairman _____

Annexure 1– The Ten General Principles

The general principles governing your conduct under the Relevant Authorities (General Principles) Order 2001 are set out below:

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their council, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the council's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or presses