



**Gwasanaeth Democraidd
Democratic Service**
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Cyfarfod / Meeting

**CYFARFOD ARBENNIG O'R PWYLLGOR SAFONAU
SPECIAL MEETING OF THE STANDARDS COMMITTEE**

Dyddiad ac Amser / Date and Time

***10.30am, DYDD LLUN, 14 GORFFENNAF, 2014**

***10.30am, MONDAY, 14 JULY, 2014**

(*Aelodau'r pwyllgor yn unig i gyfarfod yn y Siambr am 10.00am /
Committee members only to meet in the Chamber at 10.00am)

Lleoliad / Location

***Siambr Hywel Dda,
Swyddfa'r Cyngor / Council Offices,
Stryd y Jêl / Shirehall Street,
Caernarfon**

(*nodwch y lleoliad ogydd / please note venue)

Pwynt Cyswllt / Contact Point

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Dosbarthwyd/Distributed 8/07/14

**PWYLLGOR SAFONAU
STANDARDS COMMITTEE**

Aelodaeth/Membership

Aelodau Etholedig / Elected Members (3)

Y Cynghorwyr/Councillors
Eryl Jones-Williams
Michael Sol Owen
[sedd wag / vacant seat]

**Aelodau Annibynnol (â phleidlais) /
Independent Members (with a vote) (5)**

Ms Linda Byrne
Mr Gwilym Ellis Evans
Miss Margaret E. Jones
Mr Sam Soysa
Dr Einir Young

**Aelod Pwyllgor Cymunedol (â phleidlais) /
Community Committee Member (with a vote) (1)**

Y Cynghorydd / Councillor David Clay

RHAGLEN

1. YMDDIHEURIADAU

Derbyn unrhyw ymddiheuriadau am absenoldeb.

2. DATGAN BUDDIANT PERSONOL

Derbyn unrhyw ddatganiad o fuddiant personol.

3. ADRODDIAD OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU AR YMCHWILIAD I GWYNION YN ERBYN Y CYNGHORYDD CHRISTOPHER O'NEAL O GYNGOR GWYNEDD

Ystyried adroddiad y Rheolwr Cydymffurfiaeth ac Iaith (ynghlwm).

Gofynnir i'r aelodau ddod â'u copi o adroddiad yr Ombwdsmon a ddosbarthwyd gyda rhaglen Cyfarfod Arbennig 12 Mehefin o'r Pwyllgor Safonau gyda hwy i'r cyfarfod.

AGENDA

1. APOLOGIES

To receive any apologies for absence

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. REPORT BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES ON AN INVESTIGATION INTO COMPLAINTS MADE AGAINST COUNCILLOR CHRISTOPHER O'NEAL, GWYNEDD COUNCIL

To consider the report of the Compliance and Language Manager
(attached).

Members are requested to bring their copy of the Ombudsman's report which was circulated with the agenda for the Special Meeting of the Standards Committee on 12th June with them to the meeting.

PWYLLGOR :	Pwyllgor Safonau
DYDDIAD :	14 Gorffennaf 2014
TEITL :	Adroddiad Ombwdsmon Gwasanaethau Cyhoeddus Cymru ar ymchwiliad i gwynion yn erbyn y Cyngorydd C. O'Neal o Gyngor Gwynedd
AWDUR :	Rheolwr Cydymffurfiaeth ac Iaith
GWEITHREDU :	Ystyried sylwadau a phenderfynu'n derfynol ar adroddiad a baratowyd gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru (Cyf. 201300346 & 201301307)

Cefndir

1. Yn dilyn cwynion fod y Cyngorydd Christopher O'Neal, wedi torri'r cod ymddygiad i aelodau, penderfynodd Ombwdsmon Gwasanaethau Cyhoeddus Cymru gynnal ymchwiliad. Daeth yr Ombwdsmon i'r casgliad y dylid cyfeirio'r mater at y Swyddog Monitro i'w hystyried gan y Pwyllgor Safonau. Mae adroddiad yr Ombwdsmon wedi ei ddarparu'n flaenorol i aelodau'r Pwyllgor.

2. Yn unol â gofynion Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau)(Cymru) 2001 ('y Rheoliadau'), ystyriodd y Pwyllgor adroddiad yr Ombwdsmon yn ei gyfarfod ar 12 Mehefin 2014. Daeth i'r casgliad, ar sail yr adroddiad hwnnw, y dylai'r Cyngorydd O'Neal gael cyfle i gyflwyno sylwadau, naill ai ar lafar neu'n ysgrifenedig, mewn perthynas â chasgliadau'r ymchwiliad ac unrhyw honiad ei fod wedi methu, neu y gallai fod wedi methu, â chydymffurfio â chod ymddygiad yr awdurdod.

Adroddiad Ymchwiliad yr Ombwdsmon

3. Gofynnir i'r Aelodau ystyried adroddiad yr Ombwdsmon ac unrhyw sylwadau a wnaed gan y Cyngorydd O'Neal.

4. Mae'r weithdrefn ar gyfer ymdrin â honiadau a wnaed yn erbyn cyngorwyr ac a gyfeirir at y Pwyllgor i'w' weld yn yr Atodiad i'r adroddiad hwn.

Argymhelliaid

5. Bod y Pwyllgor ystyried yr honiad yn erbyn y Cyng. O'Neal a dod i un o'r penderfyniadau sy'n agored iddo ei wneud. Mae'r Rheoliadau yn darparu bod rhaid i'r Pwyllgor, ar ôl ystyried unrhyw gynrychioliadau, ddod i un o'r penderfyniadau canlynol:

(a) nad oes dim tystiolaeth o unrhyw fethu â chydymffurfio â chod ymddygiad yr awdurdod ac felly nad oes angen cymryd camau mewn perthynas â'r materion sy'n destun yr ymchwiliad;

(b) bod yr aelod wedi methu â chydymffurfio â chod ymddygiad yr awdurdod ond nad oes angen cymryd dim camau mewn perthynas â'r methiant hwnnw;

(c) bod yr aelod wedi methu â chydymffurfio â chod ymddygiad yr awdurdod ac y dylai gael ei geryddu; neu

(ch) bod yr aelod wedi methu â chydymffurfio â chod ymddygiad yr awdurdod ac y dylai gael ei atal neu ei atal yn rhannol rhag bod yn aelod o'r awdurdod hwnnw am gyfnod heb fod yn fwy na chwe mis

MEETING:	Standards Committee
DATE:	14 July 2014
TITLE:	Report by the Public Services Ombudsman for Wales on an investigation into complaints made against Councillor Christopher O'Neal, Gwynedd Council
AUTHOR:	Compliance & Language Manager
ACTION:	Consideration of Representations and Final Determination of a Report prepared by the Public Services Ombudsman for Wales (refs. 201300346 & 201301307)

(a) nad oes dim tystiolaeth o unrhyw fethu â chydymffurfio â chod ymddygiad

Background

1. Following complaints that Councillor Christopher O'Neal had breached the code of conduct for members, the Public Services Ombudsman for Wales decided to investigate. The Ombudsman decided that the matter should be referred to the Monitoring Officer for consideration by the Standards Committee. The Ombudsman's report has previously been provided to the members of the Committee.

2. In accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the Regulations"), the Committee considered the Ombudsman's report in its meeting on the 12 June 2014. It came to the conclusion that Councillor O'Neal 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 authority's code of conduct.

The Ombudsman's Investigation Report

3. Members are asked to consider the Ombudsman's report and any representations made by Councillor O'Neal.

4. The procedure for dealing with allegations made against Councillors and referred to this Committee is set out in the Appendix to this report.

Recommendations

5. That the Committee consider the complaints against Cllr. O'Neal in accordance with its Hearings Procedure and to make a determination in one of the ways open to it. The Regulations (reg.9) provide that, after hearing any representations, the Committee must come to one of the following decisions:

(a) that there is no evidence of any failure to comply with the authority's code of conduct and that therefore no action needs to be taken in respect of the matters which are the subject of the investigation;

(b) that the member has failed to comply with the authority's code of conduct but that no action needs to be taken in respect of that failure;

(c) that the member of the authority has failed to comply with the authority's code of conduct and should be censured, or

(d) that the member of the authority has failed to comply with the authority's code of conduct and should be suspended or partially suspended from being a member of that authority for a period not exceeding six months.

PWYLLGOR SAFONAU CYNGOR GWYNEDD

GWEITHDREFN GWRANDAWIADAU

CEFNDIR

1. Dyma'r trefniadau a ddilynir pan fydd angen i'r Pwyllgor Safonau ('y Pwyllgor') ddod i benderfyniad ar honiad fod aelod wedi torri'r Cod Ymddygiad. Os oes unrhyw wrthdaro rhwng y ddogfen hon a darpariaethau statudol Rhan III Deddf Llywodraeth Leol 2000 a'r rheoliadau cysylltiedig, y darpariaethau statudol fydd yn cael y flaenoriaeth.

2. Bydd rhaid i'r Pwyllgor benderfynu ar gŵyn yn erbyn aelod unai:

- ar ôl i'r gŵyn yn cael ei chyfeirio at y Swyddog Monitro gan yr Ombwdsmon i'w ymchwilio ac yna adrodd i'r Pwyllgor; neu
- ar ôl i'r Ombwdsmon gyfeirio adroddiad ar ei ymchwiliad at y Swyddog Monitro i'w gyflwyno i'r Pwyllgor

Ceir dau gam posib i'r broses o ystyried cwyn gan y Pwyllgor Safonau:

Y CAM CYNTAF

CYFARFOD CYNTAF Y PWYLLGOR SAFONAU (GWRANDAWIAD CYCHWYNNOL)

3. Ar ôl derbyn adroddiad yr Ombwdsmon neu'r Swyddog Monitro ("y Swyddog Ymchwilio"):

- Cynhelir cyfarfod i benderfynu, ar sail adroddiad y Swyddog Ymchwilio yn unig, unai
 - (a) nad oes tystiolaeth o unrhyw fethu a chydymffurfio a'r cod ymddygiad; neu
 - (b) bod unrhyw berson sy'n destun yr ymchwiliad yn cael cyfle i gyflwyno sylwadau naill ai ar lafar neu'n ysgrifenedig i'r Pwyllgor
- Bydd swyddog sydd heb fod yn rhan o'r ymchwiliad neu'r gŵyn ('y Swyddog Cynghori') yn bresennol i ddarparu cyngor cyfreithiol i'r Pwyllgor.
- Ystyrir unrhyw feini prawf y mae'r Pwyllgor wedi eu sefydlu i'w gynorthwyo i ddod i benderfyniad ac i sicrhau cysondeb.
- Os penderfynir y dylid rhoi cyfle i'r sawl sy'n destun y gŵyn ("yr Aelod") gyflwyno sylwadau (h.y. cynnal gwrandawriad llawn) bydd y Pwyllgor yn:
 - Penderfynu os dylid gofyn i'r Swyddog Ymchwilio fynychu'r gwrandawriad i gyflwyno'r adroddiad a/neu i egluro unrhyw faterion sydd ynddo.
 - Penderfynu ar ddyddiad ar gyfer y gwrandawriad i'w cynnig i'r aelod (ynghyd â dau ddyddiad arall wrth gefn).

YR AIL GAM

Y GWRANDAWIAD LLAWN

Os bydd y Pwyllgor yn penderfynu y dylai'r Aelod gael cyfle i gyflwyno sylwadau ar y gŵyn, dilynr y drefn ganlynol:

Cyn y Gwrandawriad

4. Y bwriad yw sicrhau bod y partiön yn ymwybodol o'r holl faterion sy'n berthnasol i'r achos a bod y broses yn deg, tryloyw a diduedd.

5. Ysgrifennir at y sawl sy'n destun y gŵyn gan ofyn iddo/iddi gadarnhau'n ysgrifenedig (drwy holiadur) o fewn 14 diwrnod os yw'n:

- dymuno cyflwyno sylwadau ysgrifenedig a/neu lafar
- yn anghytuno gydag unrhyw ganfyddiadau ffeithiol yn adroddiad y Swyddog Ymchwilio
- bwriadu cael ei gynrychioli gan gyfreithiwr, bargyfreithiwr neu unrhyw berson arall
- dymuno galw tystion i roi tystiolaeth gerbron y pwyllgor.
- credu y dylai unrhyw ran o'r cyfarfod / dogfennau fod yn gyfrinachol

6. Cynhelir cyfarfod rhwng Cadeirydd y Pwyllgor a'r Swyddog Cynghori i ystyried os yw'r wybodaeth sydd i law yn ddigonol ar gyfer y gwrandawriad. Byddant yn penderfynu ar yr angen am unrhyw gamau pellach i sicrhau bod yr holl wybodaeth angenrheidiol ar gael i'r Pwyllgor, a/neu unrhyw gwestiwn arall ynglŷn â chynnal y gwrandawriad. Gellir cynnal cyfarfodydd o'r fath ar unrhyw gam o'r broses, yn ôl yr angen.

7. Hysbysir y Swyddog Ymchwilio o'r gwrandawriad arfaethedig a gofyn a yw'n bwriadau mynychu.

8. Anfonir ymateb yr Aelod i'r cwestiynau uchod at y Swyddog Ymchwilio a gofyn iddo/iddi gadarnhau'n ysgrifenedig o fewn 7 diwrnod os yw'n:

- bwriadau cael ei gynrychioli yn y gwrandawriad
- dymuno galw tystion i roi tystiolaeth gerbron y pwyllgor.
- credu y dylai unrhyw ran o'r cyfarfod /unrhyw ddogfennau fod yn gyfrinachol

9. Pwysleisir wrth bob parti bod rhaid darparu manylion ymlaen llaw o'r holl ganfyddiadau ffeithiol y maent yn fwriadau eu herio a'r dystiolaeth y maent yn fwriadau ei gyflwyno.

10. Anfonir yr wybodaeth ganlynol at aelodau'r Pwyllgor, yr Aelod a'r Swyddog Ymchwilio ymlaen llaw:

- Adroddiad y Swyddog Ymchwilio
- Sylwadau ysgrifenedig yr aelod
- Unrhyw ymateb ysgrifenedig pellach gan y Swyddog Ymchwilio
- Amlinelliad o'r ffeithiau sydd wedi eu cytuno a'r rhai sydd heb eu cytuno
- Rhestr o dystion
- Os bydd yr aelod yn mynychu'r cyfarfod ac os cynrychiolir ef/hi yno
- Os bydd y Swyddog Ymchwilio yn mynychu ac os cynrychiolir ef/hi yno
- Y drefn ar gyfer y gwrandawriad

11. Os yw'r aelod wedi dweud y bydd yn mynychu'r gwrandawriad, cysylltir gydag ef/hi ychydig ddyddiau ymlaen llaw i gadarnhau os bydd yn gwneud hynny.

Y Gwrandawriad

12. Bydd y drefn ar gyfer y gwrandawriad yn dilyn yr hyn a nodir isod, yn ddarostyngedig i hawl y Cadeirydd i newid y trefniadau er mwyn sicrhau gwrandawriad teg ac effeithlon. Dylid ceisio cadw'r cyfarfod mor anffurfiol ag sy'n briodol. Mae tri cham posib i wrandawriad:

Cam 1 y gwrandawriad - Materion Trefniadol Rhagarweiniol

Bydd y Cadeirydd yn croesawi pawb ac yn sicrhau bod pawb wedi eu cyflwyno. Bydd yn egluro'r trefniadau ymarferol ar gyfer y dydd ac yna'n egluro'r camau a ddilynnir yn y gwrandawriad ei hun.

Bydd cyfle yn gyntaf i'r Pwyllgor ystyried unrhyw faterion sydd yn codi ynglŷn â sut y dylid cynnal y gwrandawriad, gan gynnwys:

- A ddylid eithrio'r cyhoedd a'r wasg o'r gwrandawriad neu rannau ohono.
- Unrhyw faterion sydd wedi dod i sylw'r Pwyllgor ers paratoi'r rhaglen
- A ddylid parhau yn absenoldeb unrhyw barti. Os nad yw'r Aelod neu'r Swyddog Ymchwilio yn bresennol neu yn cael ei gynrychioli yn y gwrandawriad, gall y Pwyllgor, os yw'n fodlon ei f/bod wedi cael rhybudd o'r gwrandawriad, ac nad oes rheswm da dros absenoldeb o'r fath wrando a phenderfynu ar y mater yn ei (h)absenoldeb, ac ar sail unrhyw sylwadau ysgrifenedig a gyflwynwyd ganddo/i. Fel arall, gall ohirio'r gwrandawriad.
- Os yw'r Pwyllgor yn fodlon (ar ôl derbyn tystysgrif feddygol) fod parti yn methu mynychu drwy waeledd a bod hynny yn debygol o barhau am gyfnod hir, gall y Pwyllgor wneud y trefniadau sydd yn ymddangos fel y rhai gorau i ddelio gyda'r mater yn deg.

Cam 2 y gwrandawriad - Penderfynu a wnaeth yr Aelod dorri'r Cod Ymddygiad

Bydd rhaid i'r Pwyllgor benderfynu ar unrhyw ffeithiau sydd yn destun anghydfod, ac os yw'r hyn ddigwyddodd yn golygu bod yr Aelod wedi torri'r Cod Ymddygiad.

Rheolau Trafod Cyffredinol

- Gall aelodau'r Pwyllgor ofyn cwestiynau i unrhyw un sy'n bresennol ar unrhyw adeg.
- Ni chaniateir croesholi gan y partïon. Caniateir cyfeirio cwestiynau drwy'r Gadair.
- Bydd y Pwyllgor yn penderfynu cwestiynau ffeithiol yn ôl pwysau tebygolrwydd.
- Os codir unrhyw fater neu dystiolaeth newydd y gellid fod wedi ei godi yn ystod y broses 'cyn-wrandawriad', y dybiaeth fydd na ddylid ei ganiatau heblaw bod rheswm da dros wneud hynny.

Dilynir y drefn ganlynol:

- Gwahoddir y Swyddog Ymchwilio i gwyflwyno ei (h)adroddiad.
- Gall alw tystion gyda chaniatâd y Pwyllgor.
- Gall y Pwyllgor ofyn cwestiynau i'r Swyddog Ymchwilio a/neu unrhyw dystion
- Gall yr Aelod ofyn cwestiynau (drwy'r Gadair) i'r Swyddog Ymchwilio a/neu unrhyw dystion.

- Gwahoddir yr Aelod i gyflwyno ei achos.
- Gall alw tystion gyda chaniatâd y Pwyllgor.
- Gall y Pwyllgor ofyn cwestiynau i'r Aelod a/neu unrhyw dystion
- Gall y Swyddog Ymchwilio ofyn cwestiynau (drwy'r Gadair) i'r Swyddog Ymchwilio a/neu unrhyw dystion
- Caiff y Swyddog Ymchwilio, ac yna yr Aelod, y cyfle i grynhoi eu hachos.

- Bydd y Pwyllgor yn ymneilltuo i ystyried ei benderfyniad
- Bydd y Pwyllgor yn ystyried yn gyffredinol y math o gosb fyddai'n addas yn yr achos.
- Hyd yn oed os yw'r Pwyllgor yn penderfynu na dorrwyd y cod, gall ystyried os dylai wneud unrhyw argymhellion cyffredinol i'r Cyngor i sicrhau na fydd sefyllfa debyg yn codi eto.
- Ar ôl dod i benderfyniad, bydd y cyfarfod yn ailymgynnull a bydd y Cadeirydd yn cyhoeddi penderfyniad y Pwyllgor

Cam 3 y gwrandawriad - Penderfynu pa gamau i'w cymryd

Os yw'r Pwyllgor yn penderfynu fod yr aelod wedi torri'r cod dilynir y drefn ganlynol:

- Bydd y Cadeirydd yn rhoi awgrym o'r math o gosb y gallai'r Pwyllgor ei ddyfarnu a gwahodd sylwadau gan y partion.
- Bydd y Pwyllgor yn ymneilltuo i ystyried ei benderfyniad os dylid cosbi'r aelod, ac os felly pa gosb a dyllid ei roddi, ac os dylai wneud unrhyw argymhellion cyffredinol i'r Cyngor
- O safbwynt cosb, gall y Pwyllgor benderfynu:
 - (a) nad oes angen cymryd unrhyw gamau mewn cysylltiad â'r methiant i gydymffurfio â'r cod; neu
 - (b) y dylid ceryddu'r aelod; neu
 - (c) y dylid atal yr aelod yn llawn neu yn rhannol rhag bod yn aelod neu'n aelod cyfetholedig o'i (h)awdurdod am gyfnod sydd ddim yn fwy na chwe mis
- Ar ôl dod i benderfyniad bydd y cyfarfod yn ailymgynnull a bydd y Cadeirydd yn cyhoeddi'r penderfyniad

Ar ôl y Gwrandawriad

13. Darperir y penderfyniad ar ffurf Rhybudd Penderfyniad ysgrifenedig yn fuan wedyn.

14. Bydd y Pwyllgor yn trefnu fod adroddiad yn cael ei gynhyrchu a'i ddsbarthu yn unol â gofynion y Rheoliadau. Ar ôl derbyn yr adroddiad, bydd y Swyddog Monitro yn ei gyhoeddi yn unol â gofynion y Rheoliadau.

3. Ydych chi'n dymuno cyflwyno unrhyw sylwadau neu ddogfennau i'r Pwyllgor?

Ydw / Nac ydw

Dylid cyflwyno unrhyw sylwadau neu ddogfennau at y Swyddog Monitro wrth ymateb i'r holiadur hwn, neu erbyn [pythefnos cyn y gwrandawriad] fan bellaf. *Ni chaniateir cyflwyno tystiolaeth hwyr heblaw bod rheswm da dros wneud hynny.

Os yn bosib, rhestrwch y dogfennau isod.

<p>4.</p>	<p>A fyddwch yn gofyn i unrhyw dystion siarad ar eich rhan yn y gwrandawriad?</p> <p>Byddaf / Na fyddaf</p> <p>Os ydych, nodwch pwy ydynt ac am ba faterion y byddant yn siarad.</p>
<p>5.</p>	<p>Ydych chi'n credu y dylai unrhyw rannau o'r dogfennau fydd gerbron y Pwyllgor gael eu cadw rhag y cyhoedd neu y dylai unrhyw ran o'r gwrandawriad gael ei gynnal yn breifat?</p> <p>Ydw / Nad ydw</p> <p>Os felly eglurwch pam.</p>

6.	<p>A fydd rhywun yn cyflwyno eich achos ar eich rhan?</p> <p>Bydd / Na fydd</p> <p>Os bydd rhowch ei (h)enw os gwelwch yn dda a chadarnhau os yw'n gyfreithiwr neu fargyfreithiwr.</p>
7.	<p>Os ydych am gael eich cynrychioli gan gyfreithiwr/bargyfreithiwr, ydych ch i am wneud cais am indemniad o dan bolisi'r Cyngor? (Gweler dogfen atodol am fanylion y polisi).</p> <p>Ydw / Nac ydw</p>
8.	<p>Oes gennych chi, eich cynrychiolydd neu eich tystion unrhyw broblemau mynediad neu anghenion eraill? (e.e. mynediad cadair olwyn?)</p> <p>Oes / Nag oes</p> <p>Os oes, rhowch fanylion</p>

Arwyddwyd **Dyddiad.....**

**Cwblhewch yr holiadur a'i ddychwelyd at y Swyddog Monitro, Cyngor
Gwynedd, Stryd y Jêl, Caernarfon, Gwynedd, LL55 1SH**

GWYNEDDD COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR HEARINGS

BACKGROUND

1. These arrangements will be followed when the Standards Committee ('the Committee') is required to decide upon a complaint that a member has breached the Code of Conduct. If there is any conflict between this document and the provisions of Part III of the Local Government Act 2000 and relevant regulations, then the statutory provisions will prevail.

- 2 The Committee will have to decide on a complaint against a member either :
 - When a complaint is referred to the Monitoring Officer by the Ombudsman to investigate and then report to the Committee; or

 - When the Ombudsman refers his report to the Monitoring Officer to present to the Committee.

There are two possible steps to the procedure of considering a complaint:

THE FIRST STEP

THE FIRST MEETING OF THE STANDARDS COMMITTEE (INITIAL HEARING)

3. Following receipt of the report by the Ombudsman or the Monitoring Officer ("the Investigating Officer") :
 - A hearing will be held to decide, on the basis of the Investigating Officer's report, either:
 - (a) that there is no evidence of any failure to comply with the Code of Conduct; or
 - (b) that any person who is the subject of the investigation should be given the opportunity to make representations (orally or in writing) to the Committee
 - An officer who has not been involved in the investigation or the complaint itself ('the Advising Officer') will be present to provide legal advice to the Committee.
 - Any criteria established to assist the Committee and to ensure consistency in decisions will be considered.
 - If it is decided to give the person who is subject to the complaint ('the Member') the opportunity to make representations (i.e. hold a full hearing) the Committee will:
 - Decide whether the Investigating Officer should be asked to attend to present the report explain any matters in it.
 - Decide on a date for the hearing to offer the Member (together with two alternative dates to be kept in reserve)

THE SECOND STEP

THE FULL HEARING

If the Committee decides that the Member should be given the opportunity to make representations, the following procedure will be followed:

Before the Hearing

4. The intention is to ensure that all parties to the hearing are able to participate in the full knowledge of the matters requiring investigation and that the proceedings are fair, transparent and impartial.
5. A questionnaire will be sent to the member who is the subject of the complaint to asking him/her to confirm in writing within 14 days whether he/she:
 - wishes to submit written and/or oral representations,
 - disagrees with any finding of fact in the report of the 'Investigating Officer'
 - intends to be represented by a solicitor, barrister or any other person,
 - wishes to call any witnesses to give evidence before the committee,
 - believes that any part of the meeting/any documents should be confidential.
6. A meeting will be held between the Chair and the Advising Officer to consider whether there is sufficient information to hand for the hearing. They will decide on any further steps that are required to ensure that all the necessary information is available to the Committee, and/or any other questions regarding how the hearing should proceed. Such meetings can be held at any stage of the process, as required.
7. The Investigating Officer will be informed of the proposed hearing and ask whether he/she intends to attend.
8. The Member's responses will be sent to the Investigation Officer and ask him/her to confirm within 7 days whether he/she:
 - intends to be represented at the hearing,
 - wishes to call any witnesses to give evidence before the committee,
 - believes that any part of the meeting/any documents should be confidential.
9. It will be made clear to all parties that details should be provided beforehand of all the findings of fact that they intend to challenge and the evidence that they intend to produce.

10. The following information will be sent to members of the Committee, the member and the Investigating Officer beforehand:
 - The Investigating Officer's report.
 - The written response from the Member
 - Any further written response by the Investigating Officer.
 - An outline of the main facts of the case that have been agreed and those that have not been agreed.
 - A list of witnesses who will appear.
 - Whether the Member will be attending the hearing, and whether he/she will be represented.
 - The procedure for the hearing.
11. If the member has said that he/she will be attending the hearing, he/she will be contacted a few days beforehand to confirm his/her attendance.

The Hearing

12. The procedure at the meeting shall be as set out below, subject to the Chair making such changes as he or she thinks fit in order to ensure a fair and efficient hearing. The hearing should be kept as informal as it appears appropriate. There will be three possible stages to a hearing :

Stage 1 of the hearing - Preliminary Procedural Issues.

The Chair will welcome everyone and ensure that everybody present has been introduced. He/she will explain the practical arrangements for the day and will then explain the steps to be taken during the hearing itself.

There will be an opportunity first of all for the Committee to resolve any issues that have arisen regarding the way the hearing should be conducted, including :

- Whether public and press should be excluded from the hearing or parts of it.
- Any matters that have come to the Committee's attention after the agenda was prepared.
- Whether the hearing should proceed in the absence of any party.
- If the Member or the Investigating Officer is not present, or represented, at the hearing, the Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence hear and decide the matter in the party's absence. Alternatively it may adjourn the hearing.
- If the Standards Committee is satisfied (after receiving a medical certificate) that any party is unable, through sickness, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter

Stage 2 of the hearing – Deciding whether the Member has breached the Code of Conduct

The Committee will have to decide on any disputed facts and whether what took place constituted a breach of the Code of Conduct by the Member.

General Rules of Procedure

- Members of the Committee can ask questions of anybody present, at any time.
- No cross-examination by the parties will be allowed, but questions can be directed through the Chair.
- The Committee will decide factual evidence on the balance of probabilities.
- If any new matter or evidence is raised that could have been raised during the 'pre-hearing' process, the assumption will be that it should not be allowed unless there is good reason to do so.

The procedure will be as follows:

- The Investigating Officer will be invited to present his/her report.
- He/she may call witnesses to give evidence, with the Committee's permission.
- The Committee may ask questions to the Investigating Officer and/or any witnesses.
- The Member may ask questions (through the chair) to the Investigating Officer and/or any witnesses.

- The Member will be invited to present his/her case
- He/she may call witnesses to give evidence, with the Committee's permission
- The Committee may ask questions to the Member and/or any witnesses.
- The Investigating Officer may ask questions (through the chair) to the Member and/or any witnesses.
- The Investigating Officer and the Member will be given an opportunity to sum up.

- The Committee will retire to consider its decision.
- If the Committee decides that the Member has breached the Code it will consider generally what kind of sanction would be appropriate in the circumstances.
- If the Committee decides that the member did not breach the code of conduct, it can still consider whether or not to make general recommendations to the Council to avoid similar situations arising in the future.
- Once the decision is reached and the meeting reconvened, the Chairman will announce the Committee's decision.

Stage 3 of the hearing – Deciding what action should be taken.

If the Committee decides that a member has breached the code:

- The Chair will give an indication of the kind of sanction the Committee is considering and will invite representations from the parties.
- The Committee will retire to consider whether the member should be punished, and if so, what punishment should be imposed, and if there are any general recommendations that should be made to the Council.
- In respect of imposing a sanction, the Committee will decide either that:
 - (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct,
 - (b) the Member should be censured or
 - (c) the Member should be suspended or partially suspended from being a member or co-opted member of his or her authority for a period not exceeding six months,
- Once a decision is made and the meeting reconvened the Chairman will announce the decision.

After the Hearing

13. A written decision will be provided in the form of a Decision Notice shortly after the hearing.
14. The Committee shall cause to be produced and distributed a report on the outcome of the investigation in accordance with the Regulations. The Monitoring Officer on receipt of the report shall publish the report as required by the Regulations.

3. Do you wish to submit any representations or documents to the Committee?

Yes / No

**Any representations or documents should be submitted to the Monitoring Officer when returning this questionnaire, or by [two weeks before hearing] at the latest. Late evidence will not be allowed to be presented unless there is good reason for doing so.*

If possible list the documents below:

4.	<p>Will you be asking any witnesses to speak on your behalf at the hearing?</p> <p>Yes / No</p> <p>If you are, please note who they are and on which points they will be speaking.</p>
5.	<p>Do you believe that any parts of any documents that will be before the Committee should be kept from the public or that any part of the hearing should be held in private?</p> <p>Yes / No</p> <p>If you do, please explain the reasons:</p>

6.	<p>Will anyone be presenting your case on your behalf?</p> <p>Yes / No</p> <p>If so, please give their name(s) and confirm whether or not they are a solicitor or barrister:</p>
7.	<p>If you are to be represented by a solicitor/barrister, do you wish to make an application for an indemnity under the Council's policy? (See attached document for details of the policy).</p> <p>Yes / No</p>
8.	<p>Do you or your representatives or witnesses have any access problems or any other requirements (e.g. wheelchair access?)</p> <p>Yes / No</p> <p>If so, please provide details</p>

Signed..... **Dated**.....

Please complete this questionnaire and return it to: The Monitoring Officer, Gwynedd Council, Stryd y Jêl, Caernarfon, Gwynedd, LL55 1SH