

Pecyn Dogfen Gyhoeddus

Gareth Owens LL.B Barrister/Bargyfreithiwr

Chief Officer (Governance)

Prif Swyddog (Llywodraethu)



Swyddog Cyswllt:

Maureen Potter 01352 702322

At: Julia Hughes (Cadeirydd)

Y Cyngorwyr: Teresa Carberry, Andrew Parkhurst a Antony Wren

Aelodau Cyfetholedig:

David Wynn Davies, Jacqueline Guest, Mark Morgan, Gill Murgatroyd a Ian Papworth

Dydd Mawrth, 9 Mai 2023

Annwyl Gynghorydd

RHYBUDD O GYFARFOD RHITHIOL
PWYLLGOR SAFONAU
DYDD LLUN, 15 FED MAI, 2023 AM 6.30 PM

Nodwch rhwng 6.00pm a 6.30pm y bydd briffio preifat ar gyfer aelodau o'r pwyllgor i adolygu'r cyfarfodydd diweddaraf gydag arweinwyr grwpiau.

Yn gywir

Steven Goodrum
Rheolwr Gwasanaethau Democratiadd

Bydd y cyfarfod yn cael ei ffrydio'n fyw ar wefan y Cyngor. Bydd y ffrydio byw yn dod i ben pan fydd unrhyw eitemau cyfrinachol yn cael eu hystyried. Bydd recordiad o'r cyfarfod ar gael yn fuan ar ôl y cyfarfod ar <https://flintshire.publici.tv/core/portal/home>

Os oes gennych unrhyw ymholiadau, cysylltwch ag aelod o'r Tîm Gwasanaethau Democrataidd ar 01352 702345.

R H A G L E N

1 YMDDIHEURIADAU

Pwrpas: I dderbyn unrhyw ymddiheuriadau.

2 DATGAN CYSYLLTIAD (GAN GYNNWYS DATGANIADAU CHWIPIO)

Pwrpas: I dderbyn unrhyw ddatganiad o gysylltiad a chynghori'r Aelodau yn unol a hynny.

3 COFNODION (Tudalennau 5 - 12)

Pwrpas: I gadarnhau, fel cofnod cywir gofnodion y cyfarfod ar 6 Mawrth 2023.

4 GODDEFEBAU

Pwrpas: Derbyn unrhyw geisiadau am oddefebau.

Bydd aelodau'r wasg / y cyhoedd yn gallu aros yn y cyfarfod tra bydd cais am ryddhad yn cael ei gyflwyno i'r Pwyllgor a bydd yn gallu dychwelyd i glywed penderfyniad y Pwyllgor. Fodd bynnag, o dan Baragraff 18C Atodlen 12A Deddf Llywodraeth Leol 1972 bydd y Pwyllgor yn gwahardd y wasg a'r cyhoedd o'r cyfarfod tra bydd yn ystyried unrhyw gais am ryddhad.

EITEMAU ER PENDERFYNIAD

5 ADOLYGIAD TREIGL O GOD YMDDYGIAD Y GWEITHWYR (Tudalennau 13 - 42)

Pwrpas: Wrth inni gynnal adolygiad treigl o'r Cyfansoddiad mae arnom angen ystyried a oes angen diwygio Cod Ymddygiad y Gweithwyr er mwyn ei gadw'n gyfoes.

6 YMATEB I YMGYNGHORIAD LLYWODRAETH CYMRU YNGHYLCH GWEITHREDU ARGYMHELLION ADOLYGIAD PENN. (Tudalennau 43 - 58)

Pwrpas: Ymateb i'r ddogfen ymgynghori a gyflwynodd Llywodraeth Cymru ynghyd â'i gynigion ar gyfer gweithredu argymhellion Adolygiad Penn.

7 ADRODDIAD BLYNYDDOL DRAFFT (Tudalennau 59 - 70)

Pwrpas: Cymeradwyo drafft cyntaf y Pwyllgor o'r Adroddiad Blynyddol

8 EITEMAU AR GYFER Y FFORWM

Pwrpas: A oes gan Aelodau unrhyw awgrymiadau ar gyfer eitemau i'w trafod yn y Fforwm Safonau Cenedlaethol ym mis Mehefin.

9 ADRODDIADAU O YMWELIADAU AELODAU ANNIBYNNOL Â CHYNGHORAU TREF/CYMUNED

Pwrpas: Derbyn adroddiadau ar lafar gan Aelodau Annibynnol y Pwyllgor am eu hymweliadau i'r cynghorau canlynol:

- Llanasa Community Council (David Davies – 26.01.23)
- Hope Community Council (Ian Papworth – 01.03.23)
- Leeswood & Pontblyddyn Community Council (Ian Papworth – 07.03.23)
- Bagillt Community Council (Jacqueline Guest – 08.03.23)

EITEMAU ER GWYBODAETH

10 RHAGLEN WAITH Y DYFODOL (Tudalennau 71 - 74)

Pwrpas: Er mwyn i'r Pwyllgor ystyried testunau i'w cynnwys ar y Rhaglen Gwaith i'r Dyfodol.

Sylwch, efallai y bydd egwyl o 10 munud os yw'r cyfarfod yn para'n hirach na dwy awr.

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 3

STANDARDS COMMITTEE

6 March 2023

Minutes of the meeting of the Standards Committee of Flintshire County Council held as a remote attendance meeting on Monday, 6 March 2023

PRESENT: Julia Hughes (Chair)

Councillors: Teresa Carberry, Andrew Parkhurst and Antony Wren

CO-OPTED MEMBERS:

David Wynn Davies, Jacqueline Guest, Mark Morgan, Gill Murgatroyd and Ian Papworth

APOLOGIES:

None were received

ALSO PRESENT:

Councillor Bernie Attridge

IN ATTENDANCE:

Chief Officer (Governance), Deputy Monitoring Officer, Senior Solicitor, and Democratic Services Officer

51. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

Councillor Ian Papworth confirmed he declared an interested in item 4 on the agenda as he had applied for a dispensation

Councillor Andrew Parkhurst referred to item 7 and confirmed that he regularly attended Nannerch Community Council meetings in his role as elected member.

52. MINUTES

The minutes of the meeting held on 9 January 2023 were presented for approval.

Matters arising

Councillor Andrew Parkhurst referred to Section 20, The Flintshire Standard, asking when this would be reviewed and that if it was not listed for review could it be included in the Forward Work Programme. The Monitoring Officer confirmed that this could be included in the timetable.

Gill Murgatroyd referred to item 48, the overview of ethical complaints, and wondered if there was an update on this. The Monitoring Officer confirmed that this would be provided when the next report was presented.

The minutes were approved as an accurate record as moved by Gill Murgatroyd and seconded by Councillor Ian Papworth

RESOLVED:

That the minutes be approved as an accurate record.

53. DISPENSATIONS

The Chair reported that one application for a request for dispensation had been received from Councillor Ian Papworth which was being heard under 18C of Part 4 of Schedule 12A of the Local Government Act 1972. Members of the press and public would be allowed to remain at the meeting whilst the application was presented but would be removed to the lobby whilst the committee deliberated and then return to hear the decision.

The Monitoring Officer explained that this related to the Trelawnyd Memorial Hall. This was undergoing governance changes with the Community Council, as the landlord, wishing to grant a new lease to the Trelawnyd Community Association (TCA) of which Councillor Papworth's wife was a committee member. This was a charitable organisation taking the lease of a public asset to run it as a public service. As Councillor Papworth's wife was involved paragraph 10(2)(c) of the Code which stated that any matter affecting the well being or financial position of a family member created a personal interest for him. This was in connection with a lease to an organisation which his wife was in control or management and would give Councillor Papworth as her husband a personal and prejudicial interest.

Councillor Ian Papworth explained that this was causing problems within the Community Council as it had 9 members but currently held two vacancies. He explained that four members of the Council were Community Association members which meant that whenever a vote was required on the Community Association or village hall and declarations of interest were made it left the Council inquorate. The Community Association had signed a 27-year lease to run the village hall and issues had arisen around building insurance and management tax. As the spouse of the secretary of the charity he had a prejudicial interest but derived no benefit from the charity and had no decision-making role within the charity. This was problematic because if members the Trelawnyd Community Association (TCA) were excluded from the meeting, the Council was unable to conduct its business as 4 members were required to vote and he outlined the political balance of the four members who remained.

The Monitoring Officer spoke to raise three questions of detail from Councillor Papworth's comments:-

- To understand when the two vacancies may be filled which could assist the quorate issue
- Were the councillors on the TCA nominated by the Community Council
- Was the TCA looking for financial assistance from the Council and if so, was this valued at £500 or less

In response Councillor Papworth explained that two people had put their names forward but it would be two to three months before there were in post. Referring to the second point Councillor Papworth reported that three members included himself were not representing the Council on the TCA. One member, the

Chair, was a member of the TCA but also represented the Council. The Monitoring Officer stated that the person nominated by the Council automatically had a personal interest under the Code because of an exemption in paragraph 12. This would enable that member to treat any item as personal only provided it did not relate to planning or licensing matters. This would enable four councillors at the community council who would be able to vote.

Referring to the last point Councillor Papworth explained that every year the two village halls in the ward received a grant from the Community Council for its insurance with Gwaenysgor Village Hall receiving £1,000 and Tralawynd Village Hall normally receiving £1,000 but this had not been received this year.

Councillor Andrew Parkhurst asked if the other councillors who were in a similar situation had requested a dispensation. Councillor Papworth confirmed that he had provided them with the forms but was unaware if they had submitted them.

The Monitoring Officer confirmed that he had not received any other forms.

Gil Murgatroyd asked when the two new councillors were appointed would they be eligible to vote on this. Councillor Papworth confirmed they would as they were not members of the TCA.

The Chair referred to the grant money of £1,000 given to the two Halls and asked why the money had not been provided to Trelawynd this year. Councillor Papworth confirmed that the Community Council had been running the hall up until December and had continued the insurance for the duration of the term which was why they did not make the grant this year.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

At this point, the Chair proposed that the meeting move into closed session as provided for under the Local Government (Access to Information) Act 1985. This was moved by Mark Morgan and seconded by David Davies.

RESOLVED:

That the press and public be excluded from the meeting as the item was considered to be exempt by virtue of paragraph 18C of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

Following the debate Councillors Ian Papworth and Bernie Attridge were re-admitted to the meeting and live streaming commenced.

The Monitoring Officer informed Councillor Papworth that the Standards Committee had agreed that in recognition of the need for the community council to be able to transact its business on this important community asset a dispensation was required. A dispensation was granted to enable Councillor Papworth to undertake the following:-

- To write to or speak with officers (with an independent person present with minutes taken of that discussion);
- To write to, speak and/or answer questions at Council/Committee meetings;
- To remain in the room during any debate;
- To vote

The Monitoring Officer confirmed that the duration of the dispensation was for up to 12 months which was the maximum that it could last. This would come to an end one month after at least one of the other councillors without an interest in the TCA was appointed. This would enable the community council to then become quorate and would alleviate the affects of the personal and prejudicial interest upon Councillor Papworth. This was under paragraphs (d), (i) and (j) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001. Written confirmation of this would be forward to Councillor Papworth and the Clerk to the Council.

RESOLVED:

That the dispensation be granted to Councillor Ian Papworth

54. SURVEY ON THE PRODUCTION OF COUNCILLOR NEWSLETTERS

The Chair introduced this report and explained that within each council term a survey of councillors was undertaken to establish whether they wished to use Council resources to publish their ward newsletters. This report was to seek approval for this survey to be undertaken in this term.

The Monitoring Officer explained this was reviewed each term with the Councillors deciding in the last two terms not to allow Council resources to be used. He then read out paragraph 7 of the Code saying there was a public role for Councillors to provide updates to their residents on what was happening at the Council together with outlining what they had undertaken in their wards. Councillors had to be mindful about sharing information and not expressing their own personal or political views. This was a reason why Council resources had never been used to produce newsletters as the Councillors who provided them wanted control over what was included. Newsletters would be required to be vetted if Council resources were used. The Monitoring Officer said the new Councillors may hold a different view on this. The Committee would need to consider what limitations should be imposed on the publications and whether it was the simple issue of principle on do we want to change Council policy on this or not. He reported that a previous survey had been obtained with the questions attached at Appendix 2 and these would be included in the survey and circulated to Councillors. Once all the responses had been received the committee could then decide what the next steps would be.

In response to a clarification question from David Davies the Monitoring Officer said the question could specify “do you produce a newsletter in your role as a county councillor or with another councillor or councillors”. This could be included in the Forward Work Programme if the committee resolved to send out the survey.

Councillor Antony Wren felt as this was a new Council it should be sent out to ensure that all new Councillors agreed with the current situation. Councillor Teresa Carberry agreed that the new Council should make the decision.

The Chair referred to question 1 and wondered if the words “are you intending to produce a newsletter” should be included as there were many new Councillors who may not have considered sending out a newsletter.

The Chair then asked for a proposer that this survey be sent out and it was proposed by Councillor Antony Wren and seconded by Councillor Teresa Carberry.

The Chair said as there was agreement that these be sent out could the results be added to the Forward Work Programme for the committee to consider any opinion and changes made in the survey.

The Monitoring Officer confirmed that once the results of the survey were received it would enable a better understanding of what was required by Councillors. If the new Council did want to allow Council resources to be used then a clear set of guidelines would need to be developed to ensure they complied with Paragraph 7 of the Code and were apolitical. If this was not supported then the situation would remain the same.

RESOLVED:

That the amended survey be sent to Councillors and included as an item on the Forward Work Programme

55. ROLLING REVIEW OF THE EMPLOYEES’ CODE OF CONDUCT

The Monitoring Officer apologised saying the report which was attached to the papers was incorrect as it was the version presented at the last meeting.

Councillor Ian Papworth proposed that this be deferred to the next meeting and this was seconded by Councillor Andrew Parkhurst and agreed by Committee.

RESOLVED:

That this report be deferred to the next meeting.

56 REPORTS FROM INDEPENDENT MEMBER VISITS TO TOWN & COMMUNITY COUNCILS

The Chair invited members of the committee to present their reports on visits to Town & Community Councils.

Mark Morgan provided an update on his visit to Penyffordd Community Council on the 14 December 2022.

The Chair provided an update on her visit to Llanfynydd Community Council on the 16 January 2023

David Davies provided an update on his visit to Ysceifiog Community Council on 16 January 2023

David Davies provided an update on his visit to Nannerch Community Council on the 1 January 2023

David Davies provided an update on his visit to Gwernymynydd Community Council on the 16 February 2023

During a discussion around behaviour at meetings the Monitoring Officer confirmed that each council had to produce a training plan for its councillors under the Local Government Elections Act Wales 2021. The Authority provided the Code element for that but not the Chair's element. He said that as part of the training he emphasised the key points which were talking or addressing comments through the Chair with good chairing and well-run meetings negating emotive meetings.

Councillor Teresa Carberry commented that councils who were part of One Voice Wales were able to access a module of training for chairing skills.

Following a lengthy debate on suggestions to be fed back to support Town and Community Councils, the following wording was put agreed:-

“When councils had an orderly debate that reduced the chance of breaches of the code. The best way to achieve this was speaking through the chair, ensuring that meetings were held in an orderly manner and that people did not talk over each other, with any poor behaviour immediately addressed by the Chair.”
This was agreed by the Committee.

The Chair asked the Monitoring Officer how many councils were yet to be visited.

The Monitoring Officer confirmed that 20 councils had been visited with 14 remaining. This included the four councils, Hope, Leeswood, Treuddyn and Higher Kinnerton, which had not been allocated as it was suggested that these were given to the new Town & Community Councillor once appointed. He agreed to circulate the list to members of the Committee. The Chair asked if those members of the committee who still had councils to visit could schedule them into their diaries to enable them to be undertaken as soon as possible. Once these were completed it would provide an overview for all councils and help them in the positive way they operated

57 FEEDBACK FROM THE NATIONAL FORUM FOR STANDARDS COMMITTEES

The Chair confirmed that this emanated from the Penn Report and Richard Penn's recommendation that a forum be developed for the whole of Wales, with the first meeting taking place on the 27 January 2023.

The Monitoring Officer confirmed that Clive Wolfendale from Conwy County Borough Council was appointed Chair with the deputy monitoring officer from Cardiff supporting him. He outlined how the Monitoring Officer support would be provided by rotation throughout North Wales to share the workload. This was a support body and network and not a decision-making body. Anything which needed to be

discussed and agreed would be fed back to each authority's Standards Committee. The Ombudsman attended and her comments and notes were attached to the agenda and the Monitoring Officer provided information on the 9 cases which were shortly to be referred for hearing. In a normal year 4 cases would be sent for hearing but this year they had received double the number of complaints and information on the long-standing cases was provided. Because of staffing issues this had led to the delay in pushing the complaints through to completion. He agreed to speak to the WLGA to ascertain if the recording of the meeting could be shared confidentially with the Standards Committee members.

The Chair attended the meeting and said it was a very useful start to the national forum. The Forum would like the agendas to be led by Standards Committees and asked if members of the committee had any ideas for items that these be sent to the Monitoring Officer so they could be put forward for consideration.

The Monitoring Officer confirmed that the agenda would be settled at the Monitoring Officers Group prior to the next Forum meeting. Each Monitoring Officer, following discussions at their Standards Committee, would put forward items. This would identify any common items to be submitted and any individual items which would be of interest to the Forum. It was important that the Standards Committees direct this rather than the officers. The next committee meeting was scheduled for May with the Forum scheduled to meet in June. This which would provide an opportunity for Members to consider any items which could be included in the agenda for the Forum.

The Chair agreed saying it was important the any items that the committee wanted to put forward were considered. The Chair then referred to the 12-week consultation seeking views on the recommendation of the Penn Review by Welsh Government and said feedback on this would be something which could be looked at.

The recommendations were moved by Mark Morgan and seconded by Gill Murgatroyd.

RESOLVED:

- (a) That the Committee note the feedback from the first meeting of the Forum.
- (b) That the Committee suggests items for future meetings of the Forum.

57 FORWARD WORK PROGRAMME

The Chair referred to the scheduled meetings on the 15 May and 3 July and said the item carried over from this meeting, the review of the Employees Code of Conduct, would need to be included on the 15 May.

The Monitoring Officer said the next meeting on the 15 May would include the Employees Code of Conduct, items for the Forum, and would also need to include the results of the survey on newsletters and the results of the 12-week consultation on the views of the Penn Review by Welsh Government if they were available.

Councillor Andrew Parkhurst asked if the Flintshire Standard could be considered either for July or later. The Monitoring Officer felt this would be good

item to take to the November meeting which was the joint meeting with Town & Community Councils.

The recommendation was moved by David Davies and seconded by Gill Murgatroyd.

RESOLVED:

That the Forward Work Programme, as amended, be approved.

58 MEMBERS OF THE PRESS IN ATTENDANCE

There were no members of the public or press in attendance.

(The meeting started at 6.30pm and ended at 19.52 pm)

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Chair

Eitem ar gyfer y Rhaglen 5



STANDARDS COMMITTEE

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| Date of Meeting | Monday, 15 May 2023 |
| Report Subject | Rolling Review of the Employees Code of Conduct |
| Report Author | Chief Officer (Governance) |

EXECUTIVE SUMMARY

At its meeting in January the Committee considered the Employee's Code and made some minor suggested amendments. It also wanted to understand how other Councils seek to balance an employee's right to freedom of expression with the reasonable expectation that the employee would not unjustly criticise the employer in public in a way that eroded the necessary relationship of trust and confidence.

Options for how this might be achieved are set out in the report.

RECOMMENDATIONS

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| 1 | That the Committee chooses from amongst the suggested options for how to manage unjust public criticism by employees. |
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REPORT DETAILS

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| 1.00 | OPTIONS FOR HOW TO MANAGE PUBLIC CRITICISM BY EMPLOYEES |
| 1.01 | At its meeting in January the Committee considered the Employees' Code of Conduct as part of its rolling review of the constitution – report here . It suggested some minor changes to the non-statutory parts of the code, which are reflected in the draft attached at Appendices 1 (with tracked changes) and 2 (clean copy). It also wanted to see how other Councils sought to manage public criticism of the Council by an employee. |

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| 1.02 | <p>The heart of the employment contract is the relationship of trust and confidence between employee and employer. That relationship can be undermined if the employer publicly criticises an employee and vice versa. The protocol on member/employee relations requires Councillors not to publicly criticise employee's conduct. The employee's Code does not deal explicitly with the same issue and suggested drafting was included at paragraph 15. The Committee was concerned about the level of restriction this drafting would impose and asked how other Councils manage the issue.</p> |
| 1.03 | <p>Some Councils take very broad-brush approach with a general warning to employees. Such provisions allow a lot of scope for interpretation, which can be good when the provision is sensibly applied but perhaps tend to offer less guidance on what actually is acceptable. An example of this (from Caerphilly) is</p> <p><i>“Officers of the Council are free to use social media in their own time, but where officers are identified directly or indirectly as Council employees using social media in a personal capacity it is expected that they behave appropriately. Any inappropriate online activity may lead to formal disciplinary action being taken against you.”</i></p> <p>And another example from Powys, which does reference the important employment relationship of trust and confidence</p> <p><i>“A climate of mutual confidence, trust, respect and support between Members, managers and staff is critical to achieving the Council's objectives and for the fulfilment of all employees. You are expected to show commitment to the Council and to further its objectives as much as you can. If there are allegations that you have brought the Council into disrepute, disciplinary action may be taken against you.”</i></p> |
| 1.04 | <p>A more specific example that perhaps balances the need for wide ranging advice with greater specificity comes from Wrexham's social media policy and the relevant provision is set out below. This addresses the issues directly and simply. It is, as is to be expected, well targeted towards the particular issues associated with social media such as the speed with which comments can achieve global reach/awareness. The drafting might perhaps be broadened out to include paper or other publications, but the drafting style is both informative and yet leaves scope for interpretation/judgement.</p> <p><i>“3. Using social media outside work The personal image you project in social media may adversely reflect on the image of the Council. We recommend you:</i></p> <ul style="list-style-type: none"> <i>• Don't identify yourself as a Council employee within a social network.</i> <i>• You should use mature discretion in all personal communications when using social media.</i> <i>• When using social media for personal purposes, you must not imply you are speaking for the Council. Never use the Council e-mail address, logos or other Council identification. Make it clear that what you say is representative of your personal views only. You should not say anything about colleagues, your managers or your</i> |

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| | <p><i>workplace which is defamatory, untrue or offensive. You must not use foul language. You must not say anything that could potentially bring the Council into disrepute or subject it to legal challenge.</i></p> <p><i>Consider the use of privacy settings. Remember that everything you post:</i></p> <ul style="list-style-type: none"> • <i>can go global within seconds</i> • <i>will stay public for a long time</i> • <i>can be republished on other websites or other social media sites</i> • <i>can be copied, used and amended by others</i> • <i>could be changed to misrepresent what you said</i> • <i>can attract comments and interest from other people/the media</i> • <p><i>Please remember that everything you say in a personal capacity on social media sites is your responsibility. The consequences of not adhering to this guidance and of bringing the Council into disrepute through your use of social media could result in disciplinary or other appropriate action in line with Council policies and could lead to dismissal.</i></p> <p><i>Any legal actions which might be brought against you as a result of what you post will be your responsibility and any financial consequences will be yours and yours alone.”</i></p> |
| 1.05 | The Committee therefore has these 3 examples plus the original drafting as options from which to choose, either with or without modifications of its own devising to those texts. Equally the committee may prefer to suggest its own wording entirely. |

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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | The resources for ensuring compliance with the Employees’ Code are the management structure of the Council. No changes to the resources required arise a result of the changes proposed to the Code of Conduct. |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | Senior managers have been consulted. If approved the proposed changes will be shared with the unions and the Constitution and Democratic Services Committee prior to being reported to Full Council. |

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| 4.00 | RISK MANAGEMENT |
| 4.01 | Ultimately, failure to follow the Code could result in an employee being dismissed and potentially the Council’s actions being challenged in an Employment Tribunal. The proposed changes to the Code of Conduct need to strike a careful balance between the legitimate interests of the Council and the rights of the employee. |

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| 5.00 | APPENDICES |
| 5.01 | Appendix 1 – Employees’ Code of Conduct in tracked changes Appendix 2 – Employees’ Code of Conduct clean copy |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | Social media policy Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk |

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| 7.00 | GLOSSARY OF TERMS |
| 7.01 | Qualifying Local Government employees – all employees in local government are “qualifying employees” apart from firefighters and teachers. |

Proposed Amendments to Employees' Code of Conduct

The words in italics comprise the statutory Employees' Code of Conduct which is automatically incorporated into Employees' Contracts of Employment and will prevail in circumstances where there is any contradictory provision elsewhere in the Code.

General Principles

1. ***The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing Authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.***
- 1.1 Local government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Flintshire employees are expected to show respect and courtesy in their dealings with the public, Councillors and fellow employees providing them with impartial and appropriate advice.

Accountability

2. ***Qualifying employees of relevant authorities work for their employing Authority and serve the whole of that Authority. Qualifying employees are defined as all employees of a relevant Authority unless exempted by statutory regulation, e.g. Teachers and Officers of Fire Authorities. They are accountable to, and owe a duty to that Authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.***
- 2.1 Employees must report any impropriety or breach of procedure to their immediate manager, except where that relates to the conduct of the manager when it must be reported to the manager's manager. Managers should, in turn, report breaches to their manager. The Chief Officer shall notify the [Head of Legal & Democratic Services Monitoring Officer](#) of the occurrence.
- 2.2 All employees are required to familiarise themselves with and comply with the Council's Financial Procedure Rules. Any employee who fails to observe Financial Procedure Rules may be subject to disciplinary action.
- 2.3 [All employees are required to familiarise themselves with and comply](#)

with the Council's Contract Procedure Rules. Any employee who fails to observe Contract Procedure Rules may be subject to disciplinary proceedings. In addition, Orders and contracts must be awarded on merit and no special favour should be shown in the procurement process to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.

- 2.4 Employees involved in the procurement process and dealing with Contractors should be clear on the separation of client and Contractor roles within the Authority. Senior employees who have both a client and Contractor responsibility must be aware of the need for accountability.
- 2.5 Employees in Contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other Contractors and sub-Contractors.
- 2.6 Employees who are privy to confidential information on Tenders or costs for either internal or external Contractors must not disclose that information to any unauthorised party or organisation.
- 2.7 Employees contemplating a management buyout must, as soon as they have formed a definite intent, inform their manager and withdraw from the contract awarding processes.
- 2.8 Employees must ensure that no special favour is shown to current or ~~recent~~ former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 2.9 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
- 2.10 Local Government Act 1972 117 - Pecuniary Interests - provides that if officers know that a contract in which they have a pecuniary interest is before the local Authority, they must give notice of their interest to the Authority. This does not, of course, apply to a contract with them in their own name because the Authority will then know of their interest. Section 117(2) forbids any officer "under colour of' their office or employment to accept "any fee or reward" whatsoever other than proper remuneration.
- 2.11 *The Bribery Act 2010*

The Bribery Act 2010 creates criminal offences for any individual who either offers or receives a financial or other advantage intending the advantage to be rewarded by the improper performance of a function or activity. The Act also creates an offence of directly or indirectly offering, promising or giving a bribe to a foreign public official so as to influence the actions of the foreign public official. Any individual found guilty of any of these offences is liable to imprisonment for up to a maximum period of 10 years.

- 2.12 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Any offer of sponsorship should only be accepted if the appropriate Chief Officer has so decided. Particular care must be taken when dealing with Contractors or potential Contractors.
- 2.13 Any offers of sponsorship received by employees should be referred to their Chief Officer for decision
- 2.14 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

Political Neutrality

3. ***Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold or the nature of the work they do), they must comply with any statutory restrictions on their political activities.***
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- 3.5 The Local Government and Housing Act 1989, Pt 1 contains provisions to stop 'twin-tracking' (where a senior local Authority employee is also an elected Member of another local Authority) and to restrict the political activity of senior employees. Local Authority employees holding politically restricted posts are disqualified from membership of any local Authority, other than a parish or community Council (s(1)), from being an MP, AM or MEP and are subject to prescribed restrictions on their political activity (s(5),(6)).
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- (a) specified in the legislation, such as the Head of Paid Service, Chief Officers and their Deputies.
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Relations with members, the public and other employees

4. ***Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.***

5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

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6. Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the Authority, in addition to the requirements of the law.

6.1 All local government employees must ensure that policies relating to equality issues as agreed by the Authority are complied with in addition

to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

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- 7. Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the Authority for personal use unless authorised to do so.**
- 7.1 All employees are required to familiarise themselves with the Council's Financial Procedure Rules and Contract Procedure Rules and know where they can inspect a copy of them. Any doubt concerning Financial Procedure Rules and Contract Procedure Rules should be raised with your immediate manager and, if the doubt continues, with the Finance Department
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Personal Interests

- 8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:**
- (1) **any rules of their relevant Authority on the registration and declaration by employees of financial and non - financial interests,**
- (2) **any rules of their relevant Authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the Authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant Authority.**
- 8.1 In addition to the criminal offence under Section 117 of the Local Government Act 1972 concerning pecuniary interests (see paragraph 2.10 above) there are the following rules concerning personal interests.

- 8.2 Employees have a personal interest whenever a reasonable person would perceive a conflict between the employee's private affairs and the work the employee does for the authority. A personal interest can arise in a range of different circumstances as set out in the following paragraphs, including (but not limited to) the matters listed below:
- Dealing with friends, family or an organisation with which the employee is associated
 - Gifts or hospitality
 - Outside work including paid and non-paid roles
- 8.3 There would be a personal interest under 8.2 if in the course of the employee's Council work he/she would normally deal with a matter that would affect him/her, their family, a close personal associate, their property, or an organisation they are associated with. For instance, if in the course of the employee's work they would normally deal with a planning application affecting a relative's property or where the employee is involved in processing a payment to an organisation with which the employee is associated.
- 8.4 Wherever the employee has such a personal interest they should immediately draw it to the attention of their Line Manager who would normally decide that the employee should not be involved in dealing with that matter. This does not mean that the employee can not be trusted but is to protect both the Council's reputation and the employee's reputation against allegations of favouritism. In exceptional circumstances where the employee's skills can not be replicated the Manager may allow the employee to undertake the work but put in place other controls such as being copied into all communications.
- 8.5 The arrangements must be recorded in writing and communicated to all other employees who need to know what the arrangements are. Each Chief Officer should have a register to record all such declarations of interest and any consequential working arrangements promptly in it. It is the employee's responsibility to ensure their declaration of interest is recorded.
- 8.6 The Council has [approved forms an online system](#) which may be used for the reporting and recording of interests, and which gives guidance on when to declare an interest and how managers should handle such interests once declared. [DOI System](#)
- 8.7 Intellectual property

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment then, as a general rule, they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

8.8 Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if:-

- * they have been made in the course of the employee's normal duties; or
- * they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- * it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

8.9 Chief Officers, those Managers reporting directly to them and employees with delegated powers will be asked to voluntarily register their membership of all clubs, societies and organisations.

Section 9 – Gifts & Hospitality

9.1 In addition to the criminal offences covered by the Bribery Act 2010 referred to in paragraph 2.11 above there are the following rules concerning gifts and hospitality.

9.2 Employees must not retain personal gifts obtained, whether directly or indirectly, as a result of their work for the authority. The only gifts that employees are entitled to retain are insignificant items of token value such as pens and diaries. With any other gifts the employee should draw this to the attention of their Line Manager who may decide that rather than the gift being returned it should be forwarded to the Member Support Office as a donation to the Chair's charity. All offers of gifts should be recorded in the register maintained by the Chief Officers.

9.3 Offers of hospitality can only be accepted when authorised by Chief Officers or where covered by paragraph 9.4 below.

9.4 Unless specifically authorised by the Chief Officer hospitality can only be accepted when an employee is attending conferences or courses, launch events, award ceremonies and other events/functions organised by Council, partners or other public bodies at which the Council needs to be represented where it is clear the hospitality is being offered indiscriminately and the value of any such hospitality does not exceed £10.

9.5 When gifts or hospitality are declined those making the offer should be courteous but firmly informed of the procedures and standards operating within the authority that require it to be declined.

- 9.6 It is the employee's responsibility to ensure that offers of gifts and hospitality are recorded in the appropriate departmental register.

Section 10 – Employees' Outside Work

- 10.1 All employees have conditions of service which require them to obtain written consent before they take on any outside employment. This includes:
- running a business that is related to an employee's work for the council e.g. a lawyer running a private law firm ; or
 - having any other work or employment outside of the Council that is related to the work carried out for the Council e.g. a licensing officer running licensed premises
- 10.2 Employees must not undertake outside work if their official work for the authority overlaps in any way with such outside work. It is irrelevant whether or not the outside work is paid for or not.
- 10.3 No outside work of any sort can be undertaken on Council premises or use Council facilities such as telephones or IT. Incoming correspondence or telephone calls relating to outside work are also not allowed.
- 10.4 Whilst an employee's right to a private life is respected that does not justify conduct which could reasonably be regarded as bringing the authority into disrepute or significantly and fundamentally affect the employee's ability to work for the Council.
- 10.5 There would be a breach of paragraph 10.4, for example:
- if an employee acts in such a way that when other employees or service users became aware of it they reasonably refuse to work or communicate with the employee; or
 - the employee works extremely long hours across both jobs to the detriment of their work for the Council; or
 - the employee is distracted in the performance of Council duties by the outside job.

Section 11 – Disclosure of Information

- 11.1 Flintshire supports the principles of open government and encourages employees to assist the public in obtaining public documentation in accordance with the rights contained in the Local Government Act 1972, the Freedom of Information Act 2000 and Environmental Information Regulations 2004.
- 11.2 The Council's Constitution, available on the Infonet, contains Access to Information Procedure Rules explaining the legislation relating to these

information rights. If an employee is uncertain as to whether information being sought should be disclosed the employee must seek advice from his/her Manager and, if uncertainty remains, the Manager can seek guidance from the Information Governance Manager.

- 11.3 Only employees with specific delegated authority may disclose to members of the public any information arising, documentation considered or events occurring at a time when a Council, Cabinet, Committee or sub-Committee meeting has decided to exclude the press and public from that part of its meeting.
- 11.4 Employees must not disclose personal data where this is not permitted under the General Data Protection Regulation. If in doubt seek advice from your Manager and explain to the person requesting the information the importance of complying with the data protection legislation. If the Manager is uncertain, advice is available from the appropriate member of the Council's Information Governance Team.
- 11.5 These rules apply not only to the press and public but also to requests from partner agencies or external bodies. Requests for information from councillors must be handled in accordance with the Council's Information Sharing Rules that are in the Constitution.
- 11.6 Where enforcing authorities such as the Police, Wales Audit Office or Health & Safety Executive are seeking information they may be doing so pursuant to statutory powers which they would quote. It is important to ensure that the request is being made by the regulatory body not an impostor. Legitimate bodies accept the need to produce written authority. If in doubt advice is available from the Council's Legal Department. Where such bodies are not using their statutory powers to obtain information then personal information should not be disclosed without ensuring it would not breach the General Data Protection Regulation.
- 11.7 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

Whistleblowing

12. ***In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998,***

and with the relevant Authority's confidential reporting procedure, or any other procedure designed for this purpose.

Appointment of Employees

- 13. Qualifying employees of relevant authorities involved in the recruitment and appointment of employees must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.**
- 13.1 Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 13.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close personal friend.
- 13.3 All candidates for any appointment under Flintshire County Council shall, when making an application, disclose in writing to the Authority whether to their knowledge they are related to any Member of the Authority or to a holder of any senior office under the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and, if the omission is discovered after appointment, he/she shall be liable to dismissal. Every senior officer of the Authority shall similarly disclose to the Authority any relationship known to him/her to exist between himself/herself and a candidate for an appointment of which he/she is aware. The Chief Executive's office will keep a record of any such disclosure made.

Investigations by Monitoring Officers

14. -Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 an un-qualifying employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

Publications, Broadcasts and Social Media

- 15.1 Employees should not publish, or authorise without the permission of

their Chief Officer the publication of any book or article by them, either alone or with others, which indicates that the writer is an employee of or connected with Flintshire County Council.

15.2 Similarly, employees should not, without permission from the Council, make any communication to a newspaper or other journal in which there is any indication that they are an employee or otherwise connected with Flintshire County Council. Employees acting in either a personal capacity or as a spokesperson for outside groups should not bring the Council into disrepute by publicising material adverse to the Council or other employees. This is not intended to preclude Trade Unions from pursuing their legitimate industrial relations activities.

15.3 The Council has established a Communications team, which is responsible for all-official press releases and statements. Individuals who are asked by the media to make comments should refer such requests direct to that team.

15.4 Employees must not make public statements about the Council (whether as a spokesperson for an organisation or as an individual) which could reflect in some unacceptable way upon the employer/employee relationship. This is not intended to preclude Trade Unions from pursuing their legitimate industrial relations activities.

15.5 The Council has an adopted social media policy, which covers unacceptable personal use by employees. Employees must comply with the version of that policy in force from time to time.

16 Information Technology and Data Security

16.1 Employees must ensure that they follow the Council's security procedures in relation to the use and storage of computers, and electronic data. Particular care should be taken to observe required procedures when using passwords and when logging on and off, especially when working with confidential records or sensitive material.

17 Standard of Dress and Appearance

17.1 There is a general expectation that dress will be appropriate to the nature of the duties, responsibilities and task being undertaken by the

individual. The Council values and welcomes the ethnic diversity of its workforce and will take account of ethnic and religious dress requirements with sensitivity

Mae'r dudalen hon yn wag yn bwrpasol

Proposed Amendments to Employees' Code of Conduct

The words in italics comprise the statutory Employees' Code of Conduct which is automatically incorporated into Employees' Contracts of Employment and will prevail in circumstances where there is any contradictory provision elsewhere in the Code.

General Principles

1. ***The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing Authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.***
- 1.1 Local government employees are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Flintshire employees are expected to show respect and courtesy in their dealings with the public, Councillors and fellow employees providing them with impartial and appropriate advice.

Accountability

2. ***Qualifying employees of relevant authorities work for their employing Authority and serve the whole of that Authority. Qualifying employees are defined as all employees of a relevant Authority unless exempted by statutory regulation, e.g. Teachers and Officers of Fire Authorities. They are accountable to, and owe a duty to that Authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.***
- 2.1 Employees must report any impropriety or breach of procedure to their immediate manager, except where that relates to the conduct of the manager when it must be reported to the manager's manager. Managers should, in turn, report breaches to their manager. The Chief Officer shall notify the Monitoring Officer of the occurrence.
- 2.2 All employees are required to familiarise themselves with and comply with the Council's Financial Procedure Rules. Any employee who fails to observe Financial Procedure Rules may be subject to disciplinary action.
- 2.3 All employees are required to familiarise themselves with and comply with the Council's Contract Procedure Rules. Any employee who fails

to observe Contract Procedure Rules may be subject to disciplinary proceedings. In addition, orders and contracts must be awarded on merit and no special favour should be shown in the procurement process to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.

- 2.4 Employees involved in the procurement process and dealing with Contractors should be clear on the separation of client and Contractor roles within the Authority. Senior employees who have both a client and Contractor responsibility must be aware of the need for accountability.
- 2.5 Employees in Contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other Contractors and sub-Contractors.
- 2.6 Employees who are privy to confidential information on Tenders or costs for either internal or external Contractors must not disclose that information to any unauthorised party or organisation.
- 2.7 Employees contemplating a management buyout must, as soon as they have formed a definite intent, inform their manager and withdraw from the contract awarding processes.
- 2.8 Employees must ensure that no special favour is shown to current or former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 2.9 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
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8.7 Intellectual property

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment then, as a general rule, they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

8.8 Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act

1977 states that after the 1st June 1978 inventions are only the property of the employer if:-

- * they have been made in the course of the employee's normal duties; or
- * they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- * it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

8.9 Chief Officers, those Managers reporting directly to them and employees with delegated powers will be asked to voluntarily register their membership of all clubs, societies and organisations.

Section 9 – Gifts & Hospitality

- 9.1 In addition to the criminal offences covered by the Bribery Act 2010 referred to in paragraph 2.11 above there are the following rules concerning gifts and hospitality.
- 9.2 Employees must not retain personal gifts obtained, whether directly or indirectly, as a result of their work for the authority. The only gifts that employees are entitled to retain are insignificant items of token value such as pens and diaries. With any other gifts the employee should draw this to the attention of their Line Manager who may decide that rather than the gift being returned it should be forwarded to the Member Support Office as a donation to the Chair's charity. All offers of gifts should be recorded in the register maintained by the Chief Officers.
- 9.3 Offers of hospitality can only be accepted when authorised by Chief Officers or where covered by paragraph 9.4 below.
- 9.4 Unless specifically authorised by the Chief Officer hospitality can only be accepted when an employee is attending conferences or courses, launch events, award ceremonies and other events/functions organised by Council, partners or other public bodies at which the Council needs to be represented where it is clear the hospitality is being offered indiscriminately and the value of any such hospitality does not exceed £10.
- 9.5 When gifts or hospitality are declined those making the offer should be courteous but firmly informed of the procedures and standards operating within the authority that require it to be declined.
- 9.6 It is the employee's responsibility to ensure that offers of gifts and hospitality are recorded in the appropriate departmental register.

Section 10 – Employees’ Outside Work

- 10.1 All employees have conditions of service which require them to obtain written consent before they take on any outside employment. This includes:
- running a business that is related to an employee’s work for the council e.g. a lawyer running a private law firm ; or
 - having any other work or employment outside of the Council that is related to the work carried out for the Council e.g. a licensing officer running licensed premises
- 10.2 Employees must not undertake outside work if their official work for the authority overlaps in any way with such outside work. It is irrelevant whether or not the outside work is paid for or not.
- 10.3 No outside work of any sort can be undertaken on Council premises or use Council facilities such as telephones or IT. Incoming correspondence or telephone calls relating to outside work are also not allowed.
- 10.4 Whilst an employee's right to a private life is respected that does not justify conduct which could reasonably be regarded as bringing the authority into disrepute or significantly and fundamentally affect the employee's ability to work for the Council.
- 10.5 There would be a breach of paragraph 10.4, for example:
- if an employee acts in such a way that when other employees or service users became aware of it they reasonably refuse to work or communicate with the employee; or
 - the employee works extremely long hours across both jobs to the detriment of their work for the Council; or
 - the employee is distracted in the performance of Council duties by the outside job.

Section 11 – Disclosure of Information

- 11.1 Flintshire supports the principles of open government and encourages employees to assist the public in obtaining public documentation in accordance with the rights contained in the Local Government Act 1972, the Freedom of Information Act 2000 and Environmental Information Regulations 2004.
- 11.2 The Council's Constitution, available on the Infonet, contains Access to Information Procedure Rules explaining the legislation relating to these information rights. If an employee is uncertain as to whether information being sought should be disclosed the employee must seek advice from his/her Manager and, if uncertainty remains, the Manager can seek guidance from the Information Governance Manager.

- 11.3 Only employees with specific delegated authority may disclose to members of the public any information arising, documentation considered or events occurring at a time when a Council, Cabinet, Committee or sub-Committee meeting has decided to exclude the press and public from that part of its meeting.
- 11.4 Employees must not disclose personal data where this is not permitted under the General Data Protection Regulation. If in doubt seek advice from your Manager and explain to the person requesting the information the importance of complying with the data protection legislation. If the Manager is uncertain, advice is available from the appropriate member of the Council's Information Governance Team.
- 11.5 These rules apply not only to the press and public but also to requests from partner agencies or external bodies. Requests for information from councillors must be handled in accordance with the Council's Information Sharing Rules that are in the Constitution.
- 11.6 Where enforcing authorities such as the Police, Wales Audit Office or Health & Safety Executive are seeking information they may be doing so pursuant to statutory powers which they would quote. It is important to ensure that the request is being made by the regulatory body not an impostor. Legitimate bodies accept the need to produce written authority. If in doubt advice is available from the Council's Legal Department. Where such bodies are not using their statutory powers to obtain information then personal information should not be disclosed without ensuring it would not breach the General Data Protection Regulation.
- 11.7 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

Whistleblowing

12. ***In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant Authority's confidential reporting procedure, or any other procedure designed for this purpose.***

Appointment of Employees

- 13. Qualifying employees of relevant authorities involved in the recruitment and appointment of employees must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.**
- 13.1 Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 13.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close personal friend.
- 13.3 All candidates for any appointment under Flintshire County Council shall, when making an application, disclose in writing to the Authority whether to their knowledge they are related to any Member of the Authority or to a holder of any senior office under the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and, if the omission is discovered after appointment, he/she shall be liable to dismissal. Every senior officer of the Authority shall similarly disclose to the Authority any relationship known to him/her to exist between himself/herself and a candidate for an appointment of which he/she is aware. The Chief Executive's office will keep a record of any such disclosure made.

Investigations by Monitoring Officers

14. Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 an employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

Publications, Broadcasts and Social Media

- 15.1 Employees should not publish, or authorise without the permission of their Chief Officer the publication of any book or article by them, either alone or with others, which indicates that the writer is an employee of or connected with Flintshire County Council.

- 15.2 Similarly, employees should not, without permission from the Council, make any communication to a newspaper or other journal in which there is any indication that they are an employee or otherwise connected with Flintshire County Council. Employees acting in either a personal capacity or as a spokesperson for outside groups should not bring the Council into disrepute by publicising material adverse to the Council or other employees. This is not intended to preclude Trade Unions from pursuing their legitimate industrial relations activities.
- 15.3 The Council has established a Communications team, which is responsible for all-official press releases and statements. Individuals who are asked by the media to make comments should refer such requests direct to that team.
- 15.4 Employees must not make public statements about the Council (whether as a spokesperson for an organisation or as an individual) which could reflect in some unacceptable way upon the employer/employee relationship. This is not intended to preclude Trade Unions from pursuing their legitimate industrial relations activities.
- 15.5 The Council has an adopted social media policy, which covers unacceptable personal use by employees. Employees must comply with the version of that policy in force from time to time.

16 Information Technology and Data Security

- 16.1 Employees must ensure that they follow the Council's security procedures in relation to the use and storage of computers, and electronic data. Particular care should be taken to observe required procedures when using passwords and when logging on and off, especially when working with confidential records or sensitive material.

17 Standard of Dress and Appearance

- 17.1 There is a general expectation that dress will be appropriate to the nature of the duties, responsibilities and task being undertaken by the individual. The Council values and welcomes the ethnic diversity of its workforce and will take account of ethnic and religious dress requirements with sensitivity

Eitem ar gyfer y Rhaglen 6



STANDARDS COMMITTEE

| | |
|------------------------|---|
| Date of Meeting | Monday, 15 May 2023 |
| Report Subject | Response to the Welsh Government consultation on implementing the Penn Review |
| Report Author | Chief Officer (Governance) |

EXECUTIVE SUMMARY

The Committee is aware of the Penn review. Welsh Government has published its response to the report and is consulting on what action it should take.

When the report was published in July 2021 the Committee reviewed the recommendations. It concluded that some needed legislation to implement and that some recommendations could be voluntarily adopted. Since then, it has worked to implement those that did not need legislation. That action has forestalled the need for Welsh Government to act on some of the recommendations.

The review of recommendations also formulated the Committee's initial response/stance to the recommendations. Since then, the Council has held a workshop, to which all members were invited, to discuss the consultation. The views expressed in that meeting have been combined with those of the Committee to prepare a draft response to the consultation. That draft response is attached for approval.

RECOMMENDATIONS

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| 1 | That the draft response to the Welsh Government consultation on implementing the Penn review is agreed. |
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REPORT DETAILS

| | | |
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| 1.00 | EXPLAINING THE DRAFT RESPONSE TO THE CONSULTATION | |
| 1.01 | The Committee is familiar with the Richard Penn Report. When the report was published the Committee considered its recommendations and concluded that whilst some recommendations needed legislation to be successfully implemented, other recommendations could be voluntarily adopted. That initial assessment is here . | |
| 1.02 | To date the Committee either on its own or in conjunction with the WLGA and Lawyers in Local Government has: <ol style="list-style-type: none"> 1) supported the creation of a Forum for the Chairs of Standards Committees that mirrors the previous forum which originally served North Wales and was latterly extended to mid Wales. That forum met in January 2023 for the first time and its second meeting is scheduled for the end of June; 2) built a consensus across all authorities around harmonising the threshold for declaring gifts and hospitality at £25; 3) agreed to make 3 changes to the Members Code of Conduct ahead of legislation from Welsh Government. | |
| 1.03 | Welsh Government has now published its official response to the Penn Review. It sets out what action Welsh Government proposes to take (if any) to implement the recommendations and then seeks views on its proposed response. The consultation is here . | |
| 1.04 | The proposed responses fall broadly in to 3 categories: <ol style="list-style-type: none"> 1) where action is proposed and we agree that the recommendation should be implemented; 2) where no action is proposed and we think the recommendation should be implemented; and 3) where no action is proposed and we would agree that the recommendations should not be implemented | |
| 1.05 | Welsh Government proposes to take action, or is at least open to taking action, on the following recommendations. All of these are supported and the draft response sets out the detail: | |
| | Rec. No. | Description |
| | 4 | Definition of equalities in the code to be brought in line with the Equality Act 2010. We have done this voluntarily but a change to the code would be supported to put the change on a statutory footing. |
| | 10 | Various changes to the procedure for the Adjudication Panel for Wales such as powers to restrict reporting, give anonymity to witnesses and powers to summon witnesses. |
| | 11 | Additional powers for Standards Committees. |

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| | Additional matters raised since the report | Issues such as the requirement to advertise in the local press for Independent Members and who should be eligible to serve as an Independent Member. These points have not previously been discussed at Committee. |
| 1.06 | Welsh Government is not proposing to take action on the recommendations below. | |
| | Rec. No. | Description |
| | 1 | Inconsistent threshold for declaring gifts across Wales. Consensus has been reached to action this voluntarily. |
| | 2 | Councillors must declare their home address in the register of interests. The PSOW has revised their guidance on this to permit just a postcode to be registered. |
| | 3 | Person not defined with in the code. |
| | 5 | Greater controls needed within the code on social media. It would be difficult to implement legislation that restricts freedom of political expression without breaching the European Convention on Human Rights. |
| | 8 | Increased use of the local resolution process (see below). |
| | 9 | Greater referral back to the Monitoring Officer using existing powers (see below) |
| 1.07 | This seems an appropriate response in light of the fact that some of these recommendations have been actioned already, or because they are recommendations with which we disagreed. For example, they are not proposing to take forward some of the recommendations which gave this committee most concern such as the seeming suggestion that all cases should be referred for local resolution before being considered by the Ombudsman. | |
| 1.08 | In a similar vein Welsh Government's response to recommendation 9 suggests that greater use could be made of the existing powers to refer matters to the Monitoring Officer for action, especially in relation to "low level" complaints. The proposal appears to be that the Committee could work with Group Leaders to promote and maintain high standards. Whilst there is perhaps more that Group Leaders could do to promote good behaviour this suggestion is predicated upon the assumption that Group Leaders agree that action is required/particular behaviour is unacceptable. Furthermore, the Committee has always been astute to ensure that it does not become involved in handling complaints to the point where it impliedly or directly expresses a view on an individual case, such that subsequently it would be perceived as being partial or predetermined. That is to say over involvement in a case might mean that the Committee could no longer be seen as acting in a manner that is independent and impartial. | |
| 1.09 | Lastly, Welsh Government is not proposing to action the following recommendations which the Committee has previously supported. I have | |

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| | added commentary to the draft response to advocate for Welsh Government's support in auctioning these 2 recommendations. | |
| | Rec. No. | Description |
| | 6 | Councillors should report their own criminality. We have adopted this on a voluntary basis but again it would be good to see it put on a statutory footing. |
| | 7 | Mandatory training. |
| 1.10 | On 2 May the Council held 2 workshops for Members in order to help formulate a response to the consultation. The views expressed during those workshops have been used to inform a draft response to the consultation (attached as Appendix 1). | |
| 1.11 | The Committee is asked to review and agree the proposed responses to the consultation. | |

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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | The response to the consultation has no resource implications for the Council. The changes currently proposed by Welsh Government equally do not carry resource implications for the Council. |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | All Members were invited to the workshops on the 2 nd May and 27 attended across both sessions. |

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| 4.00 | RISK MANAGEMENT |
| 4.01 | The response to the consultation creates no risks for the Council. The proposals within the consultation likewise do not produce significant risk for the Council (except as noted in paragraph 1.05). |

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| 5.00 | APPENDICES |
| 5.01 | Appendix 1 – proposed response to consultation questions |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | Links contained within the body of the report. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 |

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| | E-mail: Gareth.legal@flintshire.gov.uk |
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| 7.00 | GLOSSARY OF TERMS |
| 7.01 | Penn Report – a review of the ethical regime commissioned by Welsh Government in 2021, which looked at the code of conduct, how complaints are investigated and how it is enforced. |

Mae'r dudalen hon yn wag yn bwrpasol

Consultation response form: WG47012

Your name: Gareth Owens

Organisation (if applicable): Flintshire County Council

email/telephone number: Gareth.legal@flintshire.gov.uk

Your address: County Hall, Raikes Lane, Mold, CH7 6NR

Consultation Questions

We are not seeking specific responses on all the Recommendations. This is because taking into account discussions held with stakeholders and key partners Welsh Ministers' responses to the Recommendations include a number of suggestions for legislative change, highlights some actions which have subsequently been addressed without the need for legislation since the Report was published, some suggestions for non-legislative action and further suggestions for improvement which have been identified in discussion with stakeholders since the Report's publication.

However, there is a general question at the end of the consultation questions where you can add your comments on the Recommendations that do not have a specific question below, or where you wish to make any other comments on the consultation document.

Recommendation 4

Q1. Do you agree the relevant regulations relating to the Ethical Standards Framework should be amended to align with the definitions relating to protected characteristics in the Equality Act 2010, and that we should amend the definition of equality and respect in section 7 of The Conduct of Members (Principles) (Wales) Order 2001 (legislation.gov.uk)?

Yes

Comment: Flintshire County Council has already made this amendment as a voluntary change to its own code of conduct. However, a change to the national model is logical and would help to ensure consistency across Wales.

Recommendation 10

Q2. Should the Adjudication Panel Wales (APW) be able to issue Restricted Reporting Orders?

Yes (majority view)

Comment: Any steps taken that might result in the removal of an elected councillor are of fundamental importance to the electorate and the greatest transparency should apply to such proceedings. Alleged breaches of the code can arise from a wide variety of factual situations and it is entirely possible that some of these would be circumstances where restrictions reporting might be desirable e.g. where a hearing involves minors. There is a sufficiently established body of jurisprudence on the importance of open reporting and when restrictions on reporting are appropriate for such a power to be used judiciously. A number of councillors expressed the view that due to the need for transparency no such orders should be possible.

Q3. Should there be express legal provision to enable the APW to protect the anonymity of witnesses?

Yes (majority view)

Comment: Alleged breaches of the code can arise from a wide variety of factual situations and it is entirely possible that some of these would be circumstances where witnesses would feel embarrassed to give evidence (this has already happened in respect of a Flintshire county councillor). Allowing witnesses to testify anonymously would reduce that risk of embarrassment and thus increase the chance of their participation. To put it another way it could harm the administration of justice if witnesses were to refuse to testify due to the absence of the power to ensure their anonymity. It is of equal importance however to ensure that natural justice is followed and to ensure that the accused member is able to fully defend the case being brought against them, and this would include knowing the identity of their accuser.

Please also see comments above regarding transparency and need to see the evidence on which any decision is reached to remove an elected representative.

Q4. Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation. If not, what alternatives would you suggest?

Yes

Comment: It seems appropriate that the Ombudsman should be able to comment on requests for permission to appeal and that the process should allow time to comment.

Q5. Should there be an express power for the APW to summon witnesses to appeal tribunals?

Yes

Comment: It would clearly be contrary to the interests of justice if a witness were not to attend a hearing.

Q6. Should there be any changes in the procedure for referring appeals decisions back to standards committees?

No

Comment: it is an established practice that appeals tribunals should remit cases back to the primary decision maker for reconsideration. Whilst it would be a "brave" Standards Committee that disagreed with the APW the proposed change would remove the right for them to choose to do so which would be a diminution of their freedom of action.

Q7. Do you agree there should be an express provision to enable part or all of tribunal hearings to be held in private?

Yes

Comment: See comments above in response to Question 3

Q8. Do you agree that the requirement to provide not less than seven days' notice of the postponement of a hearing should be retained?

Yes/No: (delete as appropriate)

Comment: (Optional)

Q9. Should there be a wider range of sanctions available to the APW, and if so, what should they be?

Yes (majority view)

Comment: Flintshire has previously and consistently advocated for a wider and more flexible range of sentencing powers along the lines of those previously available in England. There should be the power to order that training be undertaken or an apology issued in addition to existing powers. These should

also be capable of being conditionally suspended so that for example a councillor might be suspended unless s/he issues a suitable apology within 30 days. There was a view expressed that a forced apology, which might be “mealy mouthed”, could be a distraction from a strong, clearly worded censure issued by the Case Tribunal itself.

Q10a. Do you support the proposed amendments to the process for interim case tribunals outlined in this recommendation? If not, could you please explain.

Yes (majority view)

Comment: It is presently too difficult to apply for an interim suspension order which creates a serious risk in a small number of cases. For example, where there is a safeguarding concern about a professional then under Part 5 of the Wales Safeguarding Procedures s/he could be put on administrative suspension pending an investigation in order to protect the vulnerable and the employing organisation. No such similar provision exists in relation to councillors/members. Likewise there might be examples of other serious misconduct such as extreme bullying or corruption where an interim suspension would help to protect witnesses and the public interest. The predominant view is that, in order to protect evidence, the status quo or the reputation of a council, there may be circumstances where an interim suspension might be appropriate.

The Interim Case Tribunal would, of course, need to be cognisant of the potential democratic impact of a suspension which might leave a single member ward unrepresented. Perhaps more importantly it might also impact on the political balance of a council, and so could cause political instability.

The ICT should therefore have the power to issue a partial suspension where that would be sufficient to protect the status quo e.g. suspending a councillor from the Planning Committee where s/he has been accused of taking bribes in relation to planning applications.

Assuming that interim suspension orders came to resemble the administrative suspension that might be applied to employees then any interim suspension order should not also suspend the councillor’s allowances.

Note there was also a view expressed that, whilst an administrative suspension might be a confidential matter for employees, it would be noticed if an elected representative were suspended even in the interim. This could have a negative electoral impact for a councillor who might subsequently be cleared of any wrong doing.

Q10b. If you do support the changes to the process for interim case tribunals, do you agree that an intermediate arrangement should be put in place i.e., by shortening and streamlining the process for interim case tribunals in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001?

If yes, do you have any suggestions as to how this process could be streamlined within the regulations?

Yes

Comment: (Optional)

Q11. Do you have any further views on the recommendations made in relation to the operation of the APW?

No

Comment: (Optional)

Recommendation 12

Q12. Do you have any suggestions as to how work might be taken forward to raise awareness of the Ethical Standards Framework, in particular for people with protected characteristics as described in the Equality Act 2010?

Comment: Anecdotally, it would seem that wide range of people do already know about the regime. However, it is clearly not possible to know if a potentially valid complaint has not been investigated because of a lack of awareness of the process. Publicity materials could be produced and distributed to bodies representing such groups and all councils will have a network of such local organisations. This is an area where co-ordinated central action would save duplication of time and effort. A single body should be commissioned to produce these materials in conjunction with the Ombudsman, WLGA and Lawyers in Local Government.

Other related matters outside of the Review Report

Q13. Advertising for independent members of standards committees: Do you agree the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed?

Yes

Comment: The costs of such adverts are high and anecdotal experience shows that most applicants come via other channels such as websites or existing networks of Independent Members. It is of more importance to ensure that able candidates from a wide range of backgrounds are attracted to the role and so WG should issue guidance on inclusive recruitment.

Q14a. Former council employees sitting as independent members on standards committees: Do you agree that the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed?

No. The strength of Standards Committees at present is that they must consist of a majority of Independent Members who can without doubt be said to be truly independent and politically impartial.

Q14b. If yes, what do you think would be a suitable period of grace between employment and appointment to a standards committee, and should this be the same for all council employees, or longer for those who previously holding statutory or politically restricted posts?

There was a unanimous view that politically restricted officers should not be able to serve as Independent Members. In respect of other officers the position is more nuanced. Again the predominant view is that they should not be able to serve. If, despite this view, WG wishes to permit them to be eligible then the period of grace for former employees therefore needs to be long to minimise the perception that the former employee is still affected by prior association with the council. The period of grace could be set to fixed period say 5 or 10 years or could be flexible based on (multiples of) length of service with or without a minimum. E.g. twice the length of the period of employment with a minimum period of 12 months/5 years etc

Q15. Former councillors sitting as independent members on standards committees:

Do you agree that the lifelong ban on serving as an independent member on the standards committee of the council to which a councillor was elected should be removed? If yes, what do you think would be a suitable period of grace?

No

Comment (Optional): The role of councillor, even those not in national political parties, is always a political one. The current make up of committees and structure on membership ensure that Independent Members are truly seen to be independent of local politics. Removing that prohibition risks weakening that safeguard.

Q16. Standards committees' summoning witnesses and sanctions: Should standards committees have the power to summon witnesses?

Yes

Comment: The same considerations apply here as to Question 5. Without its own powers of contempt the mechanism to issue a witness summons would need an enforcement route, perhaps the power to seek a warrant from the Magistrates.

Q17. Do you agree that the sanctions a standards committee can impose should be changed or added to?

Yes

If yes, what sanctions would you suggest? See response to Question 9. The same power to impose conditional sentences should apply to Standards Committees as should the powers to order an apology and/or training.

Welsh language

We would like to know your views on the effects that the above changes to the Framework and Model Code of Conduct would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

Q18. What effects do you think there would be?

None either negative or positive. These proposal would appear to be neutral in effect

Q19. How could positive effects be increased, or negative effects be mitigated?

Q20. Please also explain how you believe the proposed amendments could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Q21. Do you have any other comments you wish to make on the matters raised in this consultation, including for those Report Recommendations where no specific question has been posed?

Yes

Comment:

The local government sector has responded largely positively to the Penn Report. As the consultation recognises, we have taken responsibility for our regulation and have worked collectively since its publication to adopt a number of the recommendations where legislative change is not required. So far we have:

- i. held a further national standards conference (which had simply been delayed by the pandemic);

- ii. established a national forum for Standards Committee chairs to mirror, and replace, the forum that has existed for some time in North Wales (and which was latterly extended to include authorities from Mid Wales as well; and
- iii. we are currently working to harmonise the threshold for declaring gifts & hospitality at a proposed level of £25, and every authority in Wales with a different threshold has committed to take that change through its Standards Committee. As part of greater transparency it would be possible for councils to encourage all gifts to be declared.

There are 2 recommendations which require legislative change by Welsh Government for which there are currently no proposals for action. Flintshire would wish to see legislative action to support the following recommendations:

- 1) Presently there is no proposal to make it mandatory for a councillor to report their own criminal behaviour, which seems illogical when there is an obligation on others to do so. At Flintshire we have chosen to voluntarily adopt such a model by making an obligation to report any conviction imposed on the councillor since making their declaration of acceptance of office (excluding anything punishable by way of FPN) in order to have clearly defined trigger for the obligation to take effect. This embodies the leadership principle of the model principles and ensures that councillors own up in a responsible manner for their behaviour. It also adds an extra tool if the councillor seeks to cover up their criminality. Lastly, it avoids the difficulty of seeking to require councillors to disclose convictions that are spent or which would not debar them from standing for election under s.80A Local Government Act 1972. Clearly, it is a possibility that a councillor might appeal a conviction, and they have 56 days in which to do so, but it is by no means certain that an appeal will be submitted and legally they remain convicted until such time as the appeal has been successful. If a councillor does appeal then the PSOW could easily postpone the investigation until the appeal is resolved.
- 2) Although at Flintshire we have been able to establish an acceptance that training on the code should be undertaken by all councillors, that acceptance is based on the voluntary compliance of all 67 councillors. Clearly, enforced attendance at training can be a fruitless exercise if an individual doesn't wish to pay attention. However a provision within the code that training is mandatory would lend strength in any attempt to persuade that councillor to attend. Furthermore, should attempts to persuade the councillor to attend prove to be unsuccessful then such a provision would at least provide a sound basis on which to tackle their recalcitrance.

The Council (on a majority view) would therefore support the inclusion of an obligation to undertake training within the declaration of acceptance of

office, which would seem a suitable mechanism. Equally, the model code could include an obligation to undertake training. That could either be to training on the code itself or to undertake such training as the council defines to be mandatory to allow for greater local discretion.

Note there was a view expressed that if a councillor were specifically elected on a platform that's/he would not undertake training then it would be wrong to impose any punishment for failing to attend.

Further, a comment was made that clerks are an important part of the governance structure for town and community councils. Whilst there has been a provision requiring training of councillors there is no, and should be a, similar obligation in respect of clerks.

- 3) Social media is, as noted both in the report and the proposed response, an area of particular concern. Given the difficulties of legislating on an issue that might engage the right to freedom of political expression, any response needs to be carefully crafted. Councillors did suggest that perhaps the code might require councillors to be fair and accurate in any reporting or comment on council business. This might help to stem the flow of unfiltered (toxic) comments and “give purchase” where enforcement proceedings are taken. More training could also be used and wide engagement on this will be important. It is worth noting that not all town & community councils are members of One Voice Wales, and other representative groups such be included.
- 4) An issue has recently arisen about the powers of the Ombudsman to make referrals where a councillor is also on another relevant authority (i.e. an authority with its own standards committee). Currently, there is no express power for the Ombudsman to refer cases to more than authority at a time. This may/may not be necessary depending on whether the finding of the standards committee in a principal authority would also be binding on a relevant authority such as a park or fire authority.

E.g., a councillor is suspended by a county council for actions in their private life which brings their office into disrepute. The councillor is also on a fire authority. Those actions might also bring their office on the fire authority into disrepute as well. Does the suspension from the county council also automatically suspend the councillor at the fire authority or would the fire authority's own standards committee need to hear the issue? The latter seems the more likely position.

If the FRA would need to hold its own hearing, then the PSOW might usefully be given the power to make a referral to several authorities at once (which

might be implied using the statutory interpretation rules that the singular includes the plural). Conversely, if it is deemed that the ruling of the principal council's standards committee ruling does affect the fire authority then this could helpfully be defined in the legislation as to extent of a suspension and what the term "suspension" means as it is not technically defined in any piece of legislation.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick

here:

Thank you for taking time to respond to this consultation. A summary of responses will be published in due course.

Eitem ar gyfer y Rhaglen 7



STANDARDS COMMITTEE

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| Date of Meeting | Monday, 15th May 2023 |
| Report Subject | Draft Annual Report |
| Report Author | Chief Officer (Governance) |

EXECUTIVE SUMMARY

The Local Government and Elections (Wales) Act 2021 introduced a duty on Standards Committees to produce an annual report and specified some of the content that must be included.

The first draft annual report is attached for approval.

RECOMMENDATIONS

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| 1 | That the attached draft annual report is approved. |
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REPORT DETAILS

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| 1.00 | EXPLAINING THE ANNUAL REPORT |
| 1.01 | Section 63 The Local Government and Elections (Wales) Act 2021 requires every Standards Committee to produce an annual report for each financial year as soon as reasonably practical after the end of the year to which it relates. |
| 1.02 | Such reports must: (1) describe how the Committee's functions have been discharged during the financial year. (2) In particular, the report must include a summary of— (a) what has been done to discharge the general and specific functions conferred on the Committee [to promote and maintain high standards of |

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| | <p>conduct by the Members and co-opted Members of the authority and Town and Community Councils, and to assist Members and co-opted Members of the authority to observe the authority's Code of Conduct.]</p> <p>(b) reports and recommendations made or referred to the Committee [by the Ombudsman]</p> <p>(c) action taken by the Committee following its consideration of such reports and recommendations</p> <p>(d) notices given to the Committee [by the Adjudication Panel for Wales following a hearing];</p> <p>(3) An annual report by a standards Committee of a County Council or County Borough Council in Wales must include the Committee's assessment of the extent to which leaders of political groups on the Council have complied with their duties under section 52A(1) during the financial year.</p> <p>The Committee may also include</p> <p>(4) recommendations to the authority about any matter in respect of which the Committee has functions.</p> <p>The report must be considered by Full Council within 3 months of it being referred to it.</p> |
| 1.03 | <p>The attached draft annual report includes:</p> <ol style="list-style-type: none"> 1. Statistical information (number of meetings, Membership etc) 2. An overview of the work undertaken/reports considered; 3. Commentary on the work of the Committee on its duties to promote and maintain high standards 4. Its assessment of the compliance of Group Leaders with their duty to promote good behaviour by their group Members based on reports from the Group Leaders themselves as per the agreed process |
| 1.04 | <p>Members are invited to comment on the content of the report. Its format and layout will be reviewed by the graphic design team in order to improve the presentation.</p> |

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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | The report has been produced within existing resources |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | Group Leaders have been asked for their own assessment of compliance with the duty to promote good behaviour by Members of their group. |

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| 4.00 | RISK MANAGEMENT |
| 4.01 | The principal risk associated with the annual report is that a group leader might be in breach of the Code of Conduct if s/he has failed to fulfil their |

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| | duty to promote good behaviour. Conversely, overly positive reporting of inadequate performance by the Group Leader could simply mask a breakdown of one of the levers of governance. Properly assessing levels of compliance is therefore important and the Committee has agreed a process to enable it to undertake the task. This is clearly the first year in which the process has been introduced and it may therefore require review/revision in future years. |
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| 5.00 | APPENDICES |
| 5.01 | Appendix 1 – draft annual report |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | None Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk |

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| 7.00 | GLOSSARY OF TERMS |
| 7.01 | None – all technical words or phrases are explained in the context of the report. |

Mae'r dudalen hon yn wag yn bwrpasol

FLINTSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

ANNUAL REPORT

2022 – 2023

Foreword

Welcome to the annual report of Flintshire County Council's Standards Committee for the financial year 2022/2023.

As our first report, the aim has been to

- 1) provide some explanation of how the committee is formed;
- 2) give a sense of the work it might be called upon to undertake; and
- 3) to describe what has actually been done over the last 12 months.

The primary work of the committee is undertaken in public meetings, which are broadcast live and are also available in the county council's archive of meeting recordings. This report therefore, attempts to give an overview of the work it has undertaken.

In undertaking its duties, the Committee is mindful of the trust placed in it by the County Council and the public to ensure that high standards of ethical behaviour are maintained. It also seeks to ensure that the democratic process is as inclusive as possible so that people with useful information can share that evidence with officers and councillors without being able to inappropriately influence or participate in any decision where they have a personal stake in the outcome.

There were all council elections in May 2022 and so the Committee has ensured that a comprehensive programme of training has been provided to ensure that county councillor plus town & community councillors are aware of the standards of behaviour expected of them. It has also worked with group leader at the county council to raise awareness of the new duty on them to promote good behaviour on the part of their group members.

I hope that you find the work of the Committee, and this report, interesting. Should you wish to learn more about the work of the Committee, to participate in its meetings or even wish to become a member when a vacancy next arises, please go to Flintshire County Council's website using the link here.

Signed

Julia Hughes, Chair
Flintshire County Council Standards Committee

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| | Make Up of the Committee | |
| | <p>The members of the Committee are listed in the table below. The Committee consists of 3 types of member as follows:</p> <ol style="list-style-type: none"> 1. Independent Members – these are recruited by advertisement (a process called co-option) and have no current or prior links with the Council other than being on the Committee. There are 5 of these so that they form the majority of members on the committee. They serve a maximum of two terms of varying length up to a maximum of 10 years; 2. Town & Community Council – the Committee is the Standards Committee for all town and community councils within Flintshire. Those councillors select one of their number in an informal election to represent their perspective on the Committee. That representative serves for the whole council term; and 3. County Councillors – there are 3 county councillors on the Committee. They serve for the whole term of the Council <p>The majority of members are therefore not elected but are recruited from members of the public as per the requirements of legislation in Wales. A meeting of the committee can only proceed if at least half of those in the meeting are Independent Members.</p> | |
| | Name | Type of Member |
| | Julia Hughes | Independent Member and chair |
| | Mark Morgan | Independent Member and vice chair |
| | David Davies | Independent Member |
| | Jacqueline Guest | Independent Member |
| | Gill Murgatroyd | Independent Member |
| | Ian Papworth | Town & Community Council representative |
| | Teresa Carberry | County Councillor |
| | Andrew Parkhurst | County Councillor |
| | Antony Wren | County Councillor |
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| | Work of the Committee | |
| | <p>The Committee typically meets every other month. Meetings are scheduled in the intervening months to consider any urgent requests for a dispensation, and these meetings are cancelled if no such request have been received.</p> | |
| | <p>During 2022/2023 the Committee met on the dates listed below. [INSERT DATES]</p> | |

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| | <p>The work of the committee falls into several broad categories:</p> <ol style="list-style-type: none"> 1) Proactive review of rules and procedures in the Council’s constitution to ensure that they: <ol style="list-style-type: none"> a. Facilitate or encourage ethical behaviour; and b. remain pertinent and up to date 2) Considering requests for dispensation i.e., requests for the prohibition on participation when a councillor has a personal and prejudicial interest to be relaxed. This happens in a range of circumstances such where a council might otherwise be inquorate or where a ward might be unrepresented if the councillor were unable to speak <p>Add somewhere in the report – We have concerns about the low levels of dispensation requests despite regular reminders to clerks from the Monitoring Officer.</p> <ol style="list-style-type: none"> 3) Reports to increase subject awareness such as reporting on the number and type of complaints made about community, county or town councillors under the code, or reports from the Public Services Ombudsman for Wales on their findings; 4) Reports on the thresholds and levels of sanctions and areas of good practice. This helps to inform us whether local policy changes are required or additional training needed. 5) Reports from Independent Members, who have observed meetings at the county council or town and community councils, on levels of compliance with the code. The Committee then gives feedback to town and community councils on good practice and recommendations. 6) Reports on the working of the committee such as preparation for and the outcome of ethical liaison meetings (see below), preparing or approving the annual report or setting its own forward work programme. These meetings are a strategic approach to the role of the committee as a proactive one and not just reactive to complaints. |
| | <p>The Committee might also be called upon to consider reports from the Public Services Ombudsman in relation to alleged breaches of the councillors’ code of conduct. These are very rare. No referrals were made during the financial year 2022/23 and only 2 such referrals have taken place since the committee was formed in the early 2000’s.</p> |
| | <p>The Committee may also receive notice from the Adjudication Panel for Wales when it has conducted a hearing into an alleged breach of the code of conduct. Such a notice would include details of any findings that a councillor has breached the code and the penalty to</p> |

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| | <p>be imposed. The Adjudication Panel did not hear any such cases during 2022/23 and consequently did not issue any such notices.</p> |
| | <p>Once a year the Committee holds a meeting jointly with all the town and community councils. They have the chance to raise issues or questions for the agenda that relate to the standards regime and the committee will also schedule items that may be of common interest to county council and town & community councils.</p> |
| | <p>In addition to formal committee meetings the chair & vice chair attend:</p> <ol style="list-style-type: none"> 1) Ethical liaison meetings – these are informal meetings with the chair & vice chair of council, the Leader and group leaders to discuss issues of current concern amongst county councillors; 2) National Forum for Standards Committee Chairs – this is a network for sharing best practice between all the chairs of all the Standards Committees (including the 3 national park authorities and 3 fire & rescue authorities). This has replaced the North and mid Wales Forum There is secretariat support from the WLGA. There was 1 meeting of this new forum during the period of this report. |
| | <p>Training</p> |
| | <p>In May 2022, elections took place to the county council and in every City, town & community council in Wales. At the county council there was a high degree of turnover and there was a large intake of new councillors. Some of those councillors had previously served on town or community councils but many had never been a councillor before. Similar levels of turnover were also experienced in many town and community councils.</p> <p>It was therefore important that training on the code of conduct was made available. The Committee had previously agreed with all group leaders that training on the code of conduct should be regarded as mandatory for all councillors, whether new or returning.</p> <p>A comprehensive programme of training was made available to county councillors which they all either attended or viewed as a recording. Likewise a series of training sessions were made available over the summer and in the autumn of 2022 for town and community councils. Similar confirmation has been sought from the clerks that all their councillors either attended or have viewed the recording.</p> <p>In order to maintain its own skills and knowledge the Committee undertakes a training session before every meeting. This year the</p> |

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| | <p>focus has been on the councillors’ code of conduct, looking at each provision in a high level of technical detail.</p> |
| | <p>The Penn Review</p> |
| | <p>One of the key pieces of work for the committee during this financial year has been to respond to the “Penn Review”. In March 2021 Welsh Government commissioned Richard Penn to review the ethical framework in Wales. As the first such review since the inception of the current standards regime since its inception in 2001, this was an important opportunity to influence the framework at a national level.</p> <p>That review sought the views of, amongst others, the Standards Committee, on aspects of the framework that might be improved or changed. Its findings were published in XXXX and the Committee has considered those findings and whether it might be able to adopt any of the recommendations or whether legislation would be needed to implement them.</p> <p>The Committee believed that a number of the recommendations could be adopted voluntarily and, through the monitoring officer’s network, has sought to develop a consensus for action across all Standards Committees in Wales on such issues as harmonising the threshold for declaring gifts & hospitality, and the creation of a national forum for the chairs of all Standards Committees. It has also proposed the voluntary adoption of some of the recommended changes to the code of conduct for councillors.</p> |
| | <p>Compliance with the Group Leader’s Duty</p> |
| | <p>As part of its annual report the Committee is required to report on the extent to which it believes that group leaders have complied with their duty to promote ethical behaviour.</p> <p>Section 62 Local Government and Elections Act 2021 (inserting a new section 52A into the Local Government Act 2000) states “(1) A leader of a political group consisting of members of a county council or county borough council in Wales— (a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and (b) must co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions. (2) In complying with subsection (1), a leader of a political group must have regard to any guidance about the functions under that subsection issued by the Welsh Ministers.”</p> |

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| | <p>Each group leader has completed their own report of the steps which they have taken to fulfil this duty. The Committee met privately with them to explore those reports and ask questions where further detail was required. Having undertaken that assessment, the Committee:</p> <ol style="list-style-type: none"> 1) Noted the positive steps taken by group leaders to promote training to both returning and new councillors following the elections. the Committee’s view is that it is especially important given the number of new councillors for there to be high levels of attendance at the training on offer; 2) Welcomed the efforts made by group leaders to help resolve any issues that had arisen during the year; and 3) is satisfied that the group leaders have each fulfilled their duty. <p>More to add here after the next Standards Committee training session to consider this.</p> <p>The committee works collaboratively to support group leaders with their duty wherever possible.</p> |
| | <p>Recommendations for action</p> |
| | <p>From previous comparisons, it appears that the Flintshire Standards Committee receives the most requests for dispensation in North Wales. However, the Committee remains concerned the numbers seem “to be low” and wonders whether councillors are not declaring the required level of interests because they fear it might debar them from participating on items of importance to their community.</p> <p>Recommendation: that clerks be reminded of the ability to seek dispensations</p> |

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FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME 2022/23

| Date of Meeting | Topic | Notes/Decision/Action |
|------------------------|--|--|
| 3 July 2023 | <ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Results on the Survey of Newsletters • Any reports back from visits to T&CCs • Forward Work Plan | Verbal |
| 15 May 2023 | <ul style="list-style-type: none"> • Training • Dispensations • Draft Annual Report • Rolling Review of the Officers Code of Conduct • Response to WG consultation on implementing the Penn Review • Items for the Forum • Any reports back from visits to T&CCs • Forward Work Plan | Verbal Verbal |
| 6 March 2023 | <ul style="list-style-type: none"> • Introductions • Dispensations • Rolling Review of the Officers Code of Conduct • Survey on the Production of Councillor Newsletters • Feedback from the National Forum • Any reports back from visits to T&CCs • Forward Work Plan | Report by Gareth Owens Report by Gareth Owens Report by Gareth Owens Verbal |
| 9 January 2023 | <ul style="list-style-type: none"> • Dispensations • Overview of Ethical Complaints • Any reports back from visits to T&CCs | Verbal |

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| | <ul style="list-style-type: none"> • Rolling Review of the Officers Code of Conduct • Changes to the Councillors' Code of Conduct following the Rolling Review • Forward Work Plan | |
| 7 November 2022 Joint meeting with T&CCs | <ul style="list-style-type: none"> • Training • Dispensations • Rolling review of Members Code of Conduct • Items raised by Town and Community Councils • Any reports back from visits to T&CCs • Terms of Reference for the National Forum • Public Services Ombudsman for Wales' "My Findings" Publication • Forward Work Plan | Report by Gareth Owens Verbal Verbal Report by Gareth Owens Report by Matt Georgiou |
| 5 September 2022 | <ul style="list-style-type: none"> • Training • Dispensations • Feedback from Ethical Liaison Meeting • Independent Member Visits to Town and Community Councils • Update on Recruitment of a Town and Community Council Representative • Overview of Ethical Complaints • Update on the Creation of National Forum for Independent Members • Forward Work Plan | Report by Gareth Owens Report by Matt Georgiou Report by Gareth Owens Report by Gareth Owens Verbal Report by Gareth Owens |
| Reports to be scheduled - | | |

FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME 2023/24

| Date of Meeting | Topic | Notes/Decision/Action |
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| 3 June 2024 | <ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Protocol for Members in their dealings with contractors/developers. • Members' Code of Conduct. • Forward Work Plan | |
| 4 March 2024 | <ul style="list-style-type: none"> • Training • Dispensations • Forward Work Plan | |
| 8 January 2024 | <ul style="list-style-type: none"> • Introductions • Dispensations • Overview of Ethical Complaints • Confidential Reporting Procedure • Forward Work Plan | |
| 6 November 2023 Joint meeting with T&CCs | <ul style="list-style-type: none"> • Training • Dispensations • Items raised by Town and Community Councils • Protocol on Member/Officer Relations • Rolling review of the Members Code of Conduct • Review of the Flintshire Standard • Forward Work Plan | |

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| 4 September 2023 | <ul style="list-style-type: none">• Training• Dispensations• Overview of Ethical Complaints• Forward Work Plan | |
| Reports to be scheduled - | | |