

CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE

Date of Meeting	Wednesday 15 th March 2023
Report Subject	Rolling Review of the Councillors Code of Conduct
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

At its last meeting the Committee agreed in principle to make the following changes to the Councillors' Code of Conduct in response to recommendations in the Penn Report:

- iv) Paragraph 4a of the Code (to have due regard to equality of opportunity for all people) should be extended to include all nine protected characteristics under the Equality Act 2010.
- vi) 6(1)(b) of the Code of Conduct should be amended to make it an obligation on a Member to report their own criminal behaviour as well as that of others (as at present)
- vii) Make training on the Code of Conduct mandatory for all members of relevant authorities by including a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004

The necessary wording to implement those changes has been added to the code for consideration and, if approved, recommendation to Full Council for inclusion in the Constitution.

RECOMMENDATIONS

1	That the proposed amendments to the Councillors' Code of Conduct are approved.
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REPORT DETAILS

1.00	EXPLAINING THE ROLLING REVIEW OF THE COUNCILLORS CODE OF CONDUCT	
1.01	At its last meeting the Committee considered as part of its rolling review of the Constitution whether to amend the Councillors' Code of Conduct, and specifically whether to adopt the recommended changes in the Penn Review before Welsh Government legislates for them. The Committee resolved to adopt the items below in principle (retaining the numbering from the original report for ease of correlation).	
	<u>Recommended Change</u>	<u>Commentary</u>
	iv. Paragraph 4a of the Code (to have due regard to equality of opportunity for all people) should be extended to include all nine protected characteristics under the Equality Act 2010.	This could be undertaken voluntarily. Such an amendment would ultimately need to be tested in a tribunal to see whether the change was enforceable but might be a worthwhile change now to show that the Council supports people with all protected characteristics.
	vi. 6(1)(b) of the Code of Conduct should be amended to make it an obligation on a member to report their own criminal behaviour as well as that of others (as at present)	This would require legislation. It could be adopted as a voluntary, but unenforceable, amendment.
	vii. Make training on the Code of Conduct mandatory for all members of relevant authorities by including a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004	Although it could not be enforced this has, in effect, been achieved voluntarily by all County Councillors accepting that they need to attend training on the code.
1.02	The resolved to consider the actual revised drafting at this meeting. The wording necessary to implement those changes has been added to the code of conduct in draft changes for ease of reference (Appendix 1). Appendix 2 shows a clean copy so that Committee members can see the "finished version".	
1.03	The Committee also resolved to seek harmonisation of the financial threshold above which Councillors must declare any gifts/hospitality. That has been offered, whether or not it was accepted. The Monitoring Officer	

	has written to the other Monitoring Officers inviting them to consider the suggestion with their own Standards Committees
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2.00	RESOURCE IMPLICATIONS
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2.01	None arising from the proposed changes.
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3.00	CONSULTATIONS REQUIRED / CARRIED OUT
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3.01	The proposed changes will need to be considered by the Constitution and Democratic Services Committee before being reported to Full Council.
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4.00	RISK MANAGEMENT
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4.01	The proposed changes remove perceived errors or loopholes within the code, and as such improves its effect. The extension of the grounds on which it is prohibited to discriminate, in particular, serve to make the code compliant with subsequent legislation and to enhance its compliance with the Wellbeing of Future Generations Act.
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4.02	There is a risk that Welsh Government legislates to change the national model code of conduct after the Council has voluntarily adopted these changes. The Council's code might therefore be worded slightly differently requiring a further amendment at some point in the future, which could cause confusion. That risk is perhaps mitigated by the fact that, whilst the wording might differ, the intention would be the same and so any confusion should be limited.
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5.00	APPENDICES
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5.01	Appendix 1 – Code showing amendments in tracked changes Appendix 2 – Clean copy of the proposed amended Code
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
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6.01	<p><u>The Review of the Ethical Framework by Richard Penn</u></p> <p>Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>
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7.00	GLOSSARY OF TERMS
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Penn Review - a review commissioned by Welsh Government and conducted by Richard Penn looking into the Code of Conduct, how it is enforced, how training is undertaken and all other mechanisms to ensure high standards of ethical behaviour. Actual title "The Review of the Ethical Framework"