

## STANDARDS COMMITTEE

<b>Date of Meeting</b>	Monday, 15 May 2023
<b>Report Subject</b>	Rolling Review of the Employees Code of Conduct
<b>Report Author</b>	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

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

<b>1.00</b>	<b>OPTIONS FOR HOW TO MANAGE PUBLIC CRITICISM BY EMPLOYEES</b>
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 <a href="#">here</a> . 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.

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"> <li><i>• Don't identify yourself as a Council employee within a social network.</i></li> <li><i>• You should use mature discretion in all personal communications when using social media.</i></li> <li><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></li> </ul>

	<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"> <li>• <i>can go global within seconds</i></li> <li>• <i>will stay public for a long time</i></li> <li>• <i>can be republished on other websites or other social media sites</i></li> <li>• <i>can be copied, used and amended by others</i></li> <li>• <i>could be changed to misrepresent what you said</i></li> <li>• <i>can attract comments and interest from other people/the media</i></li> <li>•</li> </ul> <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.

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
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.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
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.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
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.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 – Employees’ Code of Conduct in tracked changes Appendix 2 – Employees’ Code of Conduct clean copy

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	<a href="#">Social media policy</a>  <b>Contact Officer:</b> Gareth Owens, Chief Officer (Governance) <b>Telephone:</b> 01352 702344 <b>E-mail:</b> <a href="mailto:gareth.legal@flintshire.gov.uk">gareth.legal@flintshire.gov.uk</a>

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