

FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Thursday, 4 th May 2023
Report Subject	Rolling Review of the Councillors Code of Conduct
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The Standards Committee conducts a rolling review of the codes and protocols within the constitution. As part of its most recent review, it considered changes to the Councillors' Code of Conduct in response to recommendations in the Penn Review.

It decided to recommend the following changes to Full Council for approval:

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) training on the Code of Conduct should be mandatory for all members

The Constitution and Democratic Services Committee considered the changes at its meeting on 15 March 2023 and agreed to recommend them for adoption.

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	The Standards Committee conducts a rolling review of the codes and protocols within the constitution to ensure they remain relevant and up to date. As part of its most recent review, it considered whether to adopt the changes to the code which were recommended in the Penn Review before Welsh Government legislates for them.	
1.02	The Committee considered all the changes recommended in the Penn Review (see the report dated 7 th November). It decided not to adopt all the recommended changes, recognising that some required legislation to be effective. The Committee felt that some changes were, however, sufficiently important to make them worth adopting ahead of Welsh Government's consultation on how to implement the Penn Review. It resolved to adopt the items below (retaining the numbering from the 7 th November 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.
1.03	The wording necessary to implement those changes has been added to the Code of Conduct in tracked changes for ease of reference (Appendix 1). Appendix 2 shows a clean copy so that Committee members can see the "finished version".	

1.04	The Constitution and Democratic Services Committee also considered the proposed changes at its meeting on 15 th March 2023. It agreed to recommend the changes to Full Council for adoption.
1.05	The Standards Committee also resolved to seek harmonisation across Wales 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. If harmonisation is accepted, then further amendments will come forward in due course.

2.00	RESOURCE IMPLICATIONS
2.01	None arising from the proposed changes.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The proposed changes have been approved by the Standards Committee and Constitution and Democratic Services Committee.

4.00	RISK MANAGEMENT
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.
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.

5.00	APPENDICES
5.01	Appendix 1 – Code showing amendments in tracked changes Appendix 2 – Clean copy of the proposed amended Code

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>The Review of the Ethical Framework by Richard Penn Standards Committee Report 7 November 2022 Standards Committee Report 9 January 2023</p> <p>Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>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”</p>