

## STANDARDS COMMITTEE

<b>Date of Meeting</b>	Monday, 15 May 2023
<b>Report Subject</b>	Response to the Welsh Government consultation on implementing the Penn Review
<b>Report Author</b>	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

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

<b>1.00</b>	<b>EXPLAINING THE DRAFT RESPONSE TO THE CONSULTATION</b>	
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 <a href="#">here</a> .	
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"> <li>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;</li> <li>2) built a consensus across all authorities around harmonising the threshold for declaring gifts and hospitality at £25;</li> <li>3) agreed to make 3 changes to the Members Code of Conduct ahead of legislation from Welsh Government.</li> </ol>	
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 <a href="#">here</a> .	
1.04	The proposed responses fall broadly in to 3 categories: <ol style="list-style-type: none"> <li>1) where action is proposed and we agree that the recommendation should be implemented;</li> <li>2) where no action is proposed and we think the recommendation should be implemented; and</li> <li>3) where no action is proposed and we would agree that the recommendations should not be implemented</li> </ol>	
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:	
	<b>Rec. No.</b>	<b>Description</b>
	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.

	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.	
	<b>Rec. No.</b>	<b>Description</b>
	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	

	added commentary to the draft response to advocate for Welsh Government's support in auctioning these 2 recommendations.	
	<b>Rec. No.</b>	<b>Description</b>
	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.	

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

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

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

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 – proposed response to consultation questions

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

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<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	<b>Penn Report</b> – 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.