

Public Document Pack

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Chief Officer (Governance)
Prif Swyddog (Llywodraethu)



Contact Officer:
Janet Kelly 01352 702301

To: Julia Hughes (Chair)

Councillors: Teresa Carberry, Andrew Parkhurst and Antony Wren

Co-opted Members:

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

27 February 2024

Dear Sir/Madam

NOTICE OF REMOTE MEETING
STANDARDS COMMITTEE
MONDAY, 4TH MARCH, 2024 at 6.30 PM

Yours faithfully

Steven Goodrum
Democratic Services Manager

The meeting will be live streamed onto the Council's website. The live streaming will stop when any confidential items are considered. A recording of the meeting will also be available, shortly after the meeting at <https://flintshire.public-i.tv/core/portal/home>

If you have any queries regarding this, please contact a member of the Democratic Services Team on 01352 702345.

A G E N D A

1 APOLOGIES

Purpose: To receive any apologies.

2 DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

Purpose: To receive any Declarations and advise Members accordingly.

3 MINUTES (Pages 5 - 14)

Purpose: To confirm as a correct record the minutes of the meetings held on 8 January and 5 February 2024.

ITEMS FOR DECISION

4 DISPENSATIONS

Purpose: To receive any requests for dispensations.

Members of the press/public will be able to remain at the meeting whilst an application for dispensation is presented to the Committee and will be able to return to hear the Committee's decision. However, under Paragraph 18C Schedule 12A Local Government Act 1972 the Committee will exclude the press and public from the meeting whilst it deliberates on any application for a dispensation.

5 REVIEW OF PROTOCOL FOR MEETING CONTRACTORS (Pages 15 - 22)

Purpose: To undertake a rolling review of the Protocol to ensure it is still up to date and pertinent.

6 ROLLING REVIEW OF THE MEMBERS CODE OF CONDUCT (Pages 23 - 26)

Purpose: We check all Codes and Protocols at least once per Council Term to ensure they are pertinent and up to date. This is the check of the Members Code of Conduct.

7 REPORT FROM INDEPENDENT MEMBER VISITS TO COUNTY COUNCIL MEETINGS

Purpose: To receive verbal reports from Independent Members of the Committee on their visits to the following meetings:

- County Council – 23.01.24 (Julia Hughes)
- County Council – 20.02.24 (Gill Murgatroyd)
- Licensing Committee – 21.02.24 (Gill Murgatroyd)

8 REPORTS FROM INDEPENDENT MEMBER VISITS TO TOWN & COMMUNITY COUNCILS

Purpose: To receive verbal reports from independent members of the Committee on their visits to the following councils:

- Buckley Town Council (re-visit) – 23.01.24 (Mark Morgan)

ITEMS FOR INFORMATION

9 FEEDBACK FROM THE NATIONAL FORUM FOR STANDARDS COMMITTEES

Purpose: To provide feedback from the National Forum for Standards Committees which took place on 29th January.

10 FORWARD WORK PROGRAMME (Pages 27 - 30)

Purpose: For the Committee to consider topics to be included on the attached Forward Work Programme.

Please note that there may be a 10 minute adjournment of this meeting if it lasts longer than two hours

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STANDARDS COMMITTEE

8 JANUARY 2024

Minutes of the meeting of the Standards Committee of Flintshire County Council held as a remote attendance meeting on Monday, 8 January 2024

PRESENT: Julia Hughes (Chair)

Councillors: Teresa Carberry, Andrew Parkhurst and Antony Wren

CO-OPTED MEMBERS:

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

ALSO PRESENT: Councillor Bill Crease (as an observer)

IN ATTENDANCE:

Chief Officer (Governance), and Democratic Services Officer

46. **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

Councillors Andrew Parkhurst and Anthony Wren declared a personal interest on agenda item 10: Overview of Ethical Complaints – Appendix 2.

47. **MINUTES**

The minutes of the meeting held on 6 November 2023 were presented for approval.

The minutes were approved as an accurate record as moved by Councillor Teresa Carberry and seconded by David Davies.

Matters arising

The Chair referred to page 6, item 33, and asked the Monitoring Officer for an update on the number of Town and Community Councils in Flintshire which had signed up to the Civility and Respect Pledge. The Monitoring Officer confirmed he had written to all Clerks of Town and Community Councils to identify the number of Councils signing up to the Pledge but had not yet received a response and would chase progress. It was agreed that an update would be provided at the next meeting.

The minutes of the meeting held on 4 December 2023 were presented for approval.

Accuracy

Mark Morgan referred to page 11, item 43 - final sentence and said that the word "out" should be removed.

Subject to the above amendment the minutes were approved as an accurate record as moved by Mark Morgan and seconded by Ian Papworth.

RESOLVED:

That subject to the above amendment the minutes were approved as an accurate record.

48. ADDITIONAL ITEM - RECRUITMENT OF A TOWN AND COMMUNITY COUNCIL REPRESENTATIVE TO THE STANDARDS COMMITTEE

The Chair explained that she had agreed that the Committee should consider an additional item, on the grounds of urgency, to enable the Monitoring Officer to provide a verbal update on the Recruitment of a Town and Community Council Representative to the Standards Committee. The vacancy was created due to the forthcoming resignation of Councillor Ian Papworth, the current Representative, for personal reasons. The Monitoring Officer advised that an item would be submitted to the next meeting of the County Council to seek endorsement of the proposed appointment process.

The Chair thanked Councillor Ian Papworth for his valuable work and contribution on the Standards Committee and wished him well for the future.

49. DISPENSATIONS

There were no applications for dispensation.

50. CONFIDENTIAL WHISTLEBLOWING PROCEDURE

The Monitoring Officer presented a report on the Confidential Whistleblowing Procedure. He provided background information and advised that the report was part of the Committee's regular review of policies to ensure they remained up to date and pertinent.

The Monitoring Officer drew attention to section 1.03 of the report which explained the proposal to remove the ability to make anonymous complaints from the Procedure. He explained there were also a number of minor changes to be made to the Procedure which were marked as tracked changes in Appendix 1 to the report. The Monitoring Officer advised that any further changes made by the Committee would be submitted to the Governance and Audit Committee prior to reporting to the Constitution and Democratic Services Committee and then to County Council for adoption. When agreed the Procedure would be circulated to Chief Officers and cascaded throughout the Council.

Gill Murgatroyd referred to the appendix to the report, Page 23, Section 5 - Scope of the Policy, paragraphs 5.2 and 5.5, and sought clarification around use of the term 'definition'. The Monitoring Officer agreed to move the wording in paragraphs 5.2 and 5.5 into Section 4 – Definitions. Following a further query it was agreed that a comma would be inserted into paragraph 5.2 following the word 'employed'.

Gill Murgatroyd also referred to page 27, Section 12 – Legal Protection, paragraphs 12.2, 12.3, and 12.4, and cross-referenced to the other categories of workers which were defined in paragraph 5.2. She also drew attention to page 28, Section 13, paragraph 31.1 and suggested for consistency that the ‘Role of the Employee’ be changed to read ‘Role of the Worker’. In a final point raised by Gill Murgatroyd it was agreed that paragraph 11.3 (page 27) be moved to Section 4 – Definitions.

Ian Papworth expressed concerns around the proposal to remove the ability to make anonymous complaints from the Procedure and suggested that it be amended to read “allegations may only be noted initially if they lack credibility or collaboration from a second source”.

The Chair commented on the need to give reassurance and confidence to complainants who did not want to be identified that their details would be treated and kept as highly confidential and said that the wording in the Procedure should be robust to reflect this.

In response to a query raised by Ian Papworth on paragraph 5.3 (page 23), the Monitoring Officer agreed to amend the wording to include reporting directly and to cross reference to the section which addressed direct referral in the Policy. Ian Papworth also referred to paragraph 4.6 (page 23) and suggested that it be amended to remove the wording “this should be raised initially with your line manager and if the issue is not resolved by your line manager”. The Monitoring Officer provided explanation and agreed to review the current wording in the paragraph to provide clarification.

Councillor Andrew Parkhurst raised questions round the number of complaints made which were anonymous or not and expressed concerns around the proposal to prohibit the ability to make anonymous complaints. He commented on best practice and the duty that Members and employees had to report matters of concern and referred to paragraphs 13.1, 13.2 and 13.3 (page 28) of the Policy. The Monitoring Officer responded to the comments and concerns expressed by Councillor Parkhurst and advised that other County Councils tried to dissuade anonymous allegations and quoted the wording used by Gwynedd County Council as an example. The Monitoring Officer advised that the Procedure currently stated that “at its discretion the County Council might decline to investigate”.

Councillor Parkhurst asked that the reference to Audit Committee at the top of page 29 be changed to Governance and Audit Committee and also suggested the addition of wording to identify any themes, trends, and remedial actions, in the process. He also referred to page 30, the bullet point on fraud and corruption, and suggested that the word “bribery” be inserted.

Gill Murgatroyd pointed out that the reference to Audit Committee on page 28, paragraph 13.4 also needed to be amended to read Governance and Audit Committee.

Mark Morgan raised a typographical error in paragraph .7.1 (page 28) and also suggested that the last sentence in paragraph 7.2 be amended to read as follows: "Anonymous allegations will be considered in a proportionate manner at the discretion of the Council". Following advice and the further suggestions for re-wording of paragraph 7.2 which were put forward by the Monitoring Officer, it was agreed that the Monitoring Officer would look at amending paragraph 7.2 in view of the points and comments expressed by the Committee.

The Chair referred to page 31 and asked for reassurance that the contact details would be kept up to date. It was agreed that the online reporting tool would be added to the contact page to assist access and share information. The Chair also referred to the flow chart on page 33 and asked if a flow chart was required for anonymous complaint procedures.

The Chair proposed that the recommended changes to the Procedure, as agreed by the Committee during the meeting, be approved so it could be amended and submitted to the Governance and Audit Committee for further consideration. The proposal was moved by Councillor Andrew Parkhurst and seconded by Mark Morgan and when put to the vote was agreed.

RESOLVED:

That the recommended amendments to the Procedure, as agreed by the Committee during the meeting, be approved and the Procedure be amended and submitted to the Governance and Audit Committee for further consideration.

51. REPORTS FROM INDEPENDENT MEMBER VISITS TO TOWN AND COMMUNITY COUNCILS

The Chair provided background information and invited Ian Papworth to provide a verbal report on the following visit:

- Higher Kinnerton Community Council – revisit – 21 November 2023

Following feedback on the above meeting the Monitoring Officer said he would contact the Clerk to Kinnerton Community Council to discuss her views on the meeting and determine if any action or support was required and on progress following the feedback on the first visit.

RESOLVED:

That the verbal report be received and feedback given to Kinnerton Community Council.

52. REPORTS FROM INDEPENDENT MEMBER VISITS TO FLINTSHIRE COUNTY COUNCIL MEETINGS

The Chair provided background information and explained that Independent Members had agreed a rota for attending and observing formal meetings of the County Council for 2023/24, similar to the arrangement undertaken for Town and Community Council meetings.

The Chair and Mark Morgan provided verbal reports on their following visits:

- 15.11.23 - Community and Housing Overview and Scrutiny Committee (Julia Hughes)
- 29.11.23 – Clwyd Pension Fund Committee (Mark Morgan)
- 06.12.23 – Flintshire County Council (Julia Hughes)
- 14.12.23 – Corporate Resources Overview and Scrutiny Committee (Mark Morgan)

The following key points were raised from the visits:

- that Members be reminded of the voting process and that they can only vote once on an item during a meeting; and
- that names and job titles should be displayed on screens during remote and hybrid meetings to assist any observers

The Monitoring Officer confirmed that feedback from the visits would be shared in a communication to Chairs and Members. This was moved by Ian Papworth and seconded by Councillor Andrew Parkhurst.

RESOLVED:

That the Committee notes the verbal feedback to be shared with all Members.

53. FORWARD WORK PROGRAMME

The Chair presented the Forward Work Programme for consideration.

The Chair suggested that an item on feedback from Independent Member Visits to Town and Community Councils be included on the Programme for the meeting of the Committee scheduled on 4 March 2024 to address any outstanding visits. Subject to the amendment the Forward Work Programme was agreed.

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

RESOLVED:

That subject to the above amendment the Forward Work Programme be approved.

54. OVERVIEW OF ETHICAL COMPLAINTS

The Monitoring Officer presented the report and provided background information. He explained that the report showed a summary of the ethical complaints alleging a breach of the Code that had been submitted to the Public Services Ombudsman for Wales (PSOW). As per the Committee's resolution, the complaints distinguished between different Councils and Councillors whilst still remaining anonymous. The report gives an understanding of the number and types of complaints being made, and the outcome of consideration by the PSOW. Since the last report dated 4 September 2023, two complaints had been received: one was not investigated and one was under investigation. Four were outstanding. The

Monitoring Officer referred to Appendix A of the report which listed in summary the complaints received during 2022/2023 and 2023/2024.

The recommendation in the report was moved by Gill Murgatroyd and seconded by Councillor Andrew Parkhurst

RESOLVED:

That the number and type of complaints be noted.

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

RESOLVED:

That the press and public be excluded from the meeting as the following appendix is considered to be exempt by virtue of Paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

The appendix relates to a particular individual and the public interest in withholding the information outweighs the public interest in disclosing the information.

56. OVERVIEW OF ETHICAL COMPLAINTS – APPENDIX 2

The Monitoring Officer referred to a confidential document which had been shared with the Committee prior to the meeting on the findings of an investigation by the Public Services Ombudsman for Wales (PSOW) into a complaint made against a member of Flintshire County Council.

The PSOW had permitted the document to be shared only with the Standards Committee who were asked to consider whether any communication was required in respect of learning from the matter. Discussion took place about where the findings indicated messages that should be shared with other Councillors to help promote compliance with the Councillors' Code of Conduct.

RESOLVED:

It was agreed that:

- (a) The Monitoring Officer would:
 - warn Councillors that the use of social media carries the same risk, due to its immediacy, as speaking in public. Councillors therefore need to exercise as much care using social media as they would when speaking publicly; and
 - chase for progress on delivering the requested training on respectful communications.
- (b) The Committee will take the findings into account when preparing its Annual Report

57. 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 9.34 pm)

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Chair

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STANDARDS COMMITTEE
5TH FEBRUARY 2024

Minutes of the Standards Committee of Flintshire County Council held as a remote attendance meeting on Monday, 5th February 2024

PRESENT: Julia Hughes (Chair)

Councillor: Teresa Carberry

Co-opted member: David Wynn Davies

IN ATTENDANCE: Chief Officer (Governance) / Monitoring Officer and Team Leader - Democratic Services.

58. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None.

59. DISPENSATIONS

The Chief Officer (Governance) provided background information on the dispensation request from Councillor David Healey. He explained that the Standards Committee had previously granted the dispensation request as follows:

That Flintshire County Councillor David Healey be granted dispensation under paragraphs (d), (f) and (i) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak to and write to officers; and to speak for five minutes at meetings of the Planning Committee both in relation to the above application and also any application which, in the opinion of the Monitoring Officer, was similar. Councillor Healey was advised that when he speaks to officers about the Issue there needs to be an independent witness present and there must be minutes taken of any such meetings.

Councillor Healey could speak at the above meetings about the Issue but should leave the meeting once he has spoken and before the matter was debated and voted on.

Before speaking at any such meetings about the Issue Councillor Healey should still declare his interest in the matter and confirm that he has a dispensation to speak about it. The same applies to any written communications with officers. The dispensation to be granted for 12 months, ceasing on 8 January 2024.

The request before the Committee was a repeated application and Councillor Healey had confirmed he was content for the same form to be submitted.

The Monitoring Officer explained that the dispensation had been requested to be heard at this meeting as a planning application in relation to the site was due to be submitted to the Planning Committee later that month.

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

RESOLVED:

At this point, the Chair proposed that the press and public be excluded for the remainder of the meeting for the following item by virtue of exempt information under paragraph(s) 18C of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

61. DISPENSATION - DECISION

RESOLVED:

That Flintshire County Councillor David Healey be granted dispensation under paragraphs (d), (f) and (i) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak to and write to officers; and to speak for five minutes at meetings of the Planning Committee both in relation to the above application and also any application which, in the opinion of the Monitoring Officer, was similar. Councillor Healey would be advised that when he speaks to officers about the issue there would need to be an independent witness present and there must be minutes taken of any such meetings.

Councillor Healey could speak at the above meetings about the issue but should leave the meeting once he has spoken and before the matter was debated and voted on. Before speaking at any such meetings about the issue Councillor Healey should still declare his interest in the matter and confirm that he has a dispensation to speak about it. The same applies to any written communications with officers. The dispensation to be granted for 12 months, ceasing on 4th February 2025.

62. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

None.

(The meeting started at 6.00pm and ended at 6.14pm)

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STANDARDS COMMITTEE

Date of Meeting	Monday 4 th March 2024
Report Subject	Review of Protocol for Meeting Contractors
Report Author	Gareth Owens

EXECUTIVE SUMMARY

The Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties provides advice to Members on how to avoid inadvertently compromising required levels of impartiality and transparency required of them and the Council when awarding contracts or considering planning applications.

The protocol is due for review as part of the Committee's rolling programme of reviewing the Constitution. This periodic refresh of the protocol is an opportunity to check that the document remains up to date and pertinent.

The protocol was last reviewed in 2021 when the provisions relating to dealings with developers were moved to the Planning Code of Practice.

RECOMMENDATIONS

1	That the Committee, having reviewed the Protocol for Members in their Dealings with Contractors and Other Third Parties, agrees that it remains up to date and pertinent but that it does not require amendment.
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REPORT DETAILS

1.00	EXPLAINING THE REVIEW OF PROTOCOL
1.01	The Council spends about £198m every year on contracts. It also buys and sells land/buildings. Contracts should be awarded fairly, impartially and in a transparent manner. The Protocol for Members in their Dealings with Contractors and Other Third Parties (“the Protocol”) gives advice to members on how to ensure they do not inadvertently compromise the fairness or transparency of such matters.
1.02	The Protocol explains the considerations that apply to the award of contracts. It gives guidance on whether Members should meet with people seeking contracts with the Council and safeguards that should be applied if they do so. This guidance remains both necessary and pertinent. The protocol was last reviewed in 2021.
1.03	The Committee needs to review the protocol as part of its rolling review of the constitution to ensure that it remains up to date and pertinent. It was last reviewed in 2021 when the parts relating to dealings with developers were moved to the Planning Code of Practice. The document was also updated at that time. Clearly, given the level of procurement activity by the council, the document remains pertinent. The committee needs to ensure that it is also up to date, which appears to be the case.

2.00	RESOURCE IMPLICATIONS
2.01	None associated with this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None required.

4.00	RISK MANAGEMENT
4.01	The Protocol is designed to avoid or minimise the risk of Council processes being compromised by inadvertent behaviour.

5.00	APPENDICES
5.01	Appendix One – Protocol for Members in their Dealings with Contractors and Other Third Parties.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>None.</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	None

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SECTION 21

12. PROTOCOL FOR MEMBERS IN THEIR DEALINGS WITH PARTIES SEEKING OR ENGAGED IN CONTRACTS WITH THE COUNCIL

1. INTRODUCTION

- 1.1 This Protocol has been developed to assist Members by identifying some of the existing provisions in Codes of Conduct, Guidance and Procedure Rules most relevant to dealings with existing or would be contractors for easy access when advice on individual circumstances is needed. It also extends to include advice on meetings or discussions with external bodies, and in particular private companies, which might at some stage be seeking to benefit from an association with the Council and/or its partner organisations.
- 1.2 It is recognised that Members may be contacted by a range of public, private and voluntary organisations for various reasons and in various ways. Occasionally this will be to acquaint a Member with an event that is planned for the Member's particular ward. However, more often than not the contact will be in the hope that the Member will support a proposal in one way or another.
- 1.3 The Code of Conduct for Members sets out general principles which Members must have regard to in the roles they fulfil. The Planning Code of Conduct builds upon the Members' Code of Conduct and members should refer to that document on what to do if they are lobbied by a planning applicant or objector.
- 1.4 This Protocol covers any situation where a person or business may be seeking a contract, or may already be in a contract, with the Council. For example
- A company might approach a councillor offering to sell land or buildings to the Council at a "good price". A software company might send a promotional email to a councillor explaining how its products could save the Council money
 - A company which is not fulfilling its contractual obligations complain to a Cabinet member that it is being "unfairly treated"

2. CODE OF CONDUCT

- 2.1 The Members' Code of Conduct includes the following provisions which are particularly relevant in relation to Members in their dealings with (would be) contractors and other third parties.
- 2.2 Paragraph 4 of the Members' Code requires that Members must carry out their duties and responsibilities with due regard to the principle of equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion.
- 2.3 Paragraph 7 of the Members' Code provides that Members must not use their position improperly to confer on or secure for themselves an advantage nor

seek to avoid a disadvantage. Likewise, they should not do these things in respect of other people.

- 2.4 Part 3 of the Members' Code contains detailed provisions concerning the disclosure of personal interests and where Members believe these provisions may be relevant they should seek advice from the Monitoring Officer or Deputy Monitoring Officer at the earliest opportunity. These provisions are particularly important in dealings with contractors, people or companies seeking business with the Council or third parties with whom the Member has a close personal association.
- 2.5 Paragraph 8 of the Members' Code requires that when reaching decisions Members must do so on the basis of the merits of the circumstances involved and in the public interest having regard to relevant advice provided by officers.
- 2.6 Paragraphs 9, 17 and 18 of the Members' Code contain provisions concerning accepting from anyone gifts or hospitality. Where a Member is in any doubt as to the application of these provisions, advice should be obtained from the Monitoring Officer or Deputy Monitoring Officer at the earliest opportunity.
- 2.7 The above provisions are merely a summary of some of the contents of the Members' Code of Conduct, the full details of which appear elsewhere in this Constitution.

3. **PROCEDURE RULES**

- 3.1 The Council's Financial Procedure Rules make reference to the Council's responsibility to achieve the most favourable terms possible from suppliers and requires procurement rules and procedures to be set up for that purpose.
- 3.2 The Contract Procedure Rules have been adopted by the Council based upon a number of basic principles and emphasise that purchasing and disposal procedures must:-
 - Seek value for money and achieve the aims of the Council's procurement strategy such as social value, carbon reduction etc
 - Show no undue or improper favour to any contractor, nor discriminate against any contractor.
 - Ensure that all procurement is in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information).
 - Do nothing that contravenes domestic law
 - Ensure that adequate contract files are kept.
- 3.3. One of the overriding principles that must be complied with is that neither officers nor members should show any undue or improper favour to any contractor.

4. ROLES AND RESPONSIBILITIES OF MEMBERS

- 4.1 The Council has adopted role descriptions for the various roles that Members undertake such as Leader of the Council, Cabinet Member, Committee Chair and ordinary Member. These are all available on the Council's Infonet.
- 4.2 The roles and responsibilities envisage Members, particularly at Cabinet level, having significant input into the development of policy in relation to the Authority's functions.
- 4.3 In the formulation of policy, Members will often rely on developmental work undertaken by Officers and in such circumstances there will often be a necessary overlap in this area. Equally, in their ward role, members may wish to advocate on behalf of businesses or residents in their area and may, for example, seek progress reports or request greater urgency be shown. However, care should be taken to ensure that members do not become embroiled in operational matters.
- 4.4 In fulfilling their respective roles, Cabinet Members and Officers will frequently find it convenient to be present in discussions with private companies and other external bodies in the development of options for service provision. There may be occasions when non-Cabinet Members are present at such meetings and this Protocol also covers such situations.
- 4.5 Such discussions with private companies and other external bodies will often be held for explanatory reasons to assist in undertaking an options appraisal exercise or in an attempt to understand and gain knowledge of the market ahead of a procurement exercise. Accordingly, great caution is needed in all such discussions to ensure that there can be no perception that an expectation is created that the discussions were anything more than exploratory in nature.
- 4.6 Accordingly a few simple precautions should always be put in place to avoid any ambiguity on the part of the private company or any perception by others who get to hear of the discussions that they were for irregular purposes. Such precautions will include:-
- Serious consideration should be given to the appropriateness of Members attending the meeting of that company or its representatives at all;
 - the risks involved should be assessed and the potential benefits/disadvantages identified, e.g. where there is a major contract to be awarded it may not be appropriate to meet;
 - The Council must comply both with statutory requirements in relation to procurement as well as its Contract Procedure Rules;
 - It is important that no discussions or meetings prejudice the ability of the Council to demonstrate equal treatment and transparency. Officers should always provide objective advice to Members in such circumstances. If there are any doubts, advice should be sought from the Head of Paid Service, S.151 Officer and/or Monitoring Officer; and
 - An audit trail must be kept as to why the decision was taken for Members to

attend the meetings of that company or its representatives.

4.7 If it is considered appropriate for the discussions to proceed with Members, further precautions should be put in place:-

- A written invitation to the company in question setting out the purpose of the proposed discussions.
- Where the invitation is from a private company, the purpose of the discussions should be ascertained and contained in a letter accepting the invitation.
- Appropriate Officers should always be present to advise Members.
- A record must be made of the discussion and where possible agreed by the attendees. This record can take many forms such as notes or a recording of a meeting (though this should only happen with the explicit agreement of all persons in the meeting). The record must set out any conclusions arrived at. It should always be borne in mind that such notes could be the subject of a Freedom of Information Act request and the extent to which any commercially sensitive information needs to be discussed should be assessed and agreed in advance with the contractor.
- It must be made clear to the company that similar discussions may be held with any other interested party.
- Where the matter to be discussed is likely to lead to a procurement exercise, either because of the Procurement Rules, Contract Procedure Rules or best practice, it must be made clear that all interested tenderers will need to be financially vetted and comply with all other pre-tender requirements. This will probably be required even in circumstances where procurement is not at issue if it is likely to lead to a contractual arrangement if discussions are successful.
- Care must be taken to ensure that no company is given any advantage over others as a consequence of the discussions.
- Unless there is a good reason for doing so, which can be objectively justified, discussions must take place in the Council's offices.
- The Council should meet all costs associated with a visit to a contractor or to a development site or developer.

4.8 If Members are in any doubt about the provisions of this Protocol they should seek advice from either the Monitoring Officer or the Deputy Monitoring Officer as the impact of their actions could potentially have serious consequences for themselves and the Council.



STANDARDS COMMITTEE

Date of Meeting	Monday, 4 th March 2024
Report Subject	Rolling Review of the Members Code of Conduct
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The Council must adopt a Code of Conduct that is based on the prescribed national model. It can amend the code provided the provisions are no less onerous than the model.

The Standards Committee keeps all the codes and protocols in the Constitution under rolling review to ensure they are up to date and pertinent. As the code is mandatory, clearly the key question is whether it adequately covers behaviours that would be inconsistent with the Nolan principles/unacceptable.

The Committee has agreed to review the code every year due to its importance. The last such review was in November 2023 and prior to that in November 2022. Welsh Government has not yet proposed any legislation to implement the remaining recommendations from the Penn Review.

At the last review the Committee recommended that the threshold above which gifts need to be registered should be increased from £10 to £25. That recommendation was considered, but not endorsed, at the Constitution and Democratic Services Committee in January.

RECOMMENDATIONS

1	That the Committee reviews the code of conduct to ensure that it remains up to date and relevant.
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REPORT DETAILS

1.00	EXPLAINING THE REVIEW OF THE CODE
1.01	Under section 51 Local Government Act 2000 the Council must adopt a Code of Conduct for Councillors (“the Code”) based on a national model. All Members must sign to say that they will follow the Code. The Council’s current code is based on the national model contained within The Local Authorities (Model Code of Conduct) (Wales) Order 2008 (as amended).
1.02	The Standards Committee keeps all the codes and protocols within the Constitution under review to ensure that they remain pertinent and up to date. Clearly, as the code is mandatory it is still “pertinent”. The review therefore should be to consider whether it remains up to date and whether it adequately addresses behaviours that might be considered to breach the Principles of Public Life or to be in some other way unacceptable.
1.03	At its meeting in November 2022, the Committee considered and recommended changes to the code of conduct following the Penn Review. Those have been adopted. Welsh Government has not come forward with any legislation to implement the recommendations, and proposals are not expected until the new Senedd term (i.e. after 2026).
1.04	At its meeting in November 2023, the Committee also considered raising the £10 threshold above which gifts need to be declared. That figure is/was different in other councils and so the Penn Review suggested that it should be harmonised. Through the national forum a harmonised figure of £25 was proposed by the committee.
1.05	Proposed changes to the code of conduct need to be considered by the Constitution and Democratic Services Committee prior to consideration at Full Council. At its meeting in January that committee declined to endorse that recommendation due to public comment (see the meeting here). This is unusual (though perfectly legitimate) and a decision needs to be taken on whether to push on to Council (giving it the choice between the views of 2 committees) or whether to let the matter rest.
1.06	In light of the recent amendments there do not appear to be any changes that are required at this stage.

2.00	RESOURCE IMPLICATIONS
2.01	The proposed change would have no impact on resources.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	All chairs of the Standards Committees across Wales and the Constitution & Democratic Services Committee.

4.00	RISK MANAGEMENT
4.01	None directly arising from this report.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>The Review of the Ethical Framework by Richard Penn</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	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.

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

Date of Meeting	Topic	Notes/Decision/Action
3 June 2024	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Draft Annual Report 2023-2024 • Review of the Flintshire Standard • Review of Member/Officer Protocol • Forward Work Plan 	
4 March 2024	<ul style="list-style-type: none"> • Training • Dispensations • Feedback on Meetings of the National Standards Forum • Feedback from Independent Member Attendance at Meetings of the County Council • Feedback on Independent Member Visits to Town and Community Councils • Review of Protocol for Meeting Contractors • Rolling Review of the Members' Code of Conduct • Forward Work Plan 	<p>Verbal Verbal</p> <p>Verbal</p> <p>Report by Gareth Owens Report by Gareth Owens</p>
8 January 2024	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Confidential Whistleblowing Procedure • Feedback from Independent Member Attendance at Meetings of the County Council 	

	<ul style="list-style-type: none"> • 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 • Rolling review of the Members Code of Conduct • Suggested items for the National Forum for Chairs of Standards Committees • Feedback from the Ethical Liaison Meeting with Group Leaders • Summary of Feedback from Independent Member Visits to Town and Community Councils • Forward Work Plan 	Verbal Report by Gareth Owens Verbal Report by Gareth Owens Verbal
4 September 2023	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Public Services Ombudsman for Wales (PSOW) Findings • Results of Survey on Councillors Newsletters • Agenda items for the next Ethical Liaison Meeting • Feedback from Independent Member Visits to Town and Community Councils • Forward Work Plan 	Report by Gareth Owens Report by Gareth Owens Report by Gareth Owens Report by Gareth Owens Verbal
3 July 2023	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Visit Schedules for County Council Meetings • Feedback from National Standards Forum • Feedback from Independent Member Visits to Town and Community Councils 	Report by Gareth Owens Report by Gareth Owens Verbal Verbal

	<ul style="list-style-type: none">• Forward Work Plan	
Reports to be scheduled – Welsh Government decision following consultation on implementing the Penn Review National Standards Conference		

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