

Report To: County Council

Date of Meeting: 10th May 2016

Lead Member / Officer: Gary Williams, Monitoring Officer

Report Author: Gary Williams, Monitoring Officer

Title: Changes to the Model Code of Conduct

1. What is the report about?

- 1.1 The report is about proposed changes made to the Model Code of Conduct for Wales as a result of a recent statutory instrument signed by the Minister for Public Services entitled Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016.

2. What is the reason for making this report?

- 2.1 To advise Members of the proposed changes to the Code of Conduct brought about by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016, (the Order)

3. What are the Recommendations?

- 3.1 That Council adopts the Code of Conduct set out in Appendix 1 to this report which incorporates the changes required by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

4. Report details.

- 4.1 The Minister for Public Services has signed the Order and Councils have been advised to adopt the changes required at their annual meetings and in any event by no later than July 2016.
- 4.2 The effect of the Order is to make changes to the Model Code of Conduct applicable to members of local authorities in Wales. Members are aware that every local authority is obliged by s51 Local Government Act 2000 to adopt a Code of Conduct for its members, which includes all of the provisions of the Model Code of Conduct. Local authorities may adopt a Code of Conduct which contains additional provisions to those of the Model provided that those additions do not detract from the effect of the Model provisions.
- 4.3 Denbighshire County Council's Code of Conduct differs from the existing Model in two respects. Firstly, it contains a requirement that all Members attend training on the Code of Conduct at least once in every term. Secondly it places a value of £25 over which any gifts or hospitality must be declared. This provision was adopted to avoid inadvertent breach of the Code by Members. It is suggested that these variations from the new Model Code be

retained and they are included in the suggested Code of Conduct set out in Appendix 1

- 4.4 The Order changes the Model Code of Conduct in the following ways.
- 4.4.1 Paragraph 10(2) (b) is omitted from the Model Code. This paragraph has caused difficulties in the past given the difference between the policy intention of its inclusion and a strict interpretation of the language used in the paragraph. A strict interpretation of the paragraph, as worded, could preclude Members from participating in any decision affecting their ward whereas the underlying policy intention was to limit the scope of this provision to decisions made by individual Councillors in the exercise of executive functions. The removal of the paragraph avoids this ambiguity.
- 4.4.2 The obligation on a Member to report a potential breach of the Code to the Ombudsman is removed. The requirement to report such a breach to the Monitoring Officer is retained.
- 4.4.3 Paragraph 15 of the Model Code deals with the register of Members' interests and is amended to clarify that any interest disclosed for the first time by a Member must be entered in the register. The exemption for Town and Community Councillors from the requirement to register, in advance, certain financial and other interests, listed in paragraph 10(2)(a) of the Code, is maintained.
- 4.4.4 The Local Government (Democracy) (Wales) Act 2013 transferred responsibility for maintaining the register of interests of Members of Town and Community Councils from the Monitoring Officer of the County Council for the area, to the "proper officer" of each Town and Community Council with effect from 1st May 2015. These changes are reflected in the new Model Code in paragraphs 15(3) and 15(6).
- 4.5 The new Model Code subject to the variations referred to above is contained in Appendix 1 to this report. Once the revised Code of Conduct has been adopted by Council, a notice will have to be published in at least one newspaper circulating in the area notifying the public of its adoption and telling them where they can find a copy of it. As all City, Town and Community Councils will also have to adopt the revisions to the Code it is suggested that, to assist them, the County Council includes, in the notice that it publishes, the names of those other Councils who would wish to be included. This will save them the cost of publishing separate notices. A copy will also have to be sent to the Public Services Ombudsman for Wales.
- 4.6 Members will be aware that subsequent to their election they were required to sign an undertaking to comply with the terms of the Code of Conduct. The wording of that undertaking was such that there is no need for Members to sign a further undertaking following the adoption of the revised Code.
- 4.7 In addition, the Minister for Public Services also brought into effect the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016. These Regulations make a number of technical amendments to other regulations relating to the ethical

agenda. Local authorities will be able to establish joint Standards Committees should they wish to do so. Standards Committees will be able to delay the publication of agendas connected to their consideration of a misconduct investigation. This is something which was already the practice of many Committees.

- 4.8 The new Regulations also grant power to refer a report of misconduct to another Council's Standards Committee for determination which may be useful to avoid potential conflicts of interest in some circumstances. In addition, a general category of dispensation is introduced which will enable a Standards Committee to grant a dispensation if it considers it appropriate in all the circumstances to do so, where it is not otherwise possible to make reasonable adjustments to accommodate a person's disability. A dispensation granted under this category which has ongoing effect is subject to annual review.

5. How does the decision contribute to the Corporate Priorities?

- 5.1 The report has no direct impact on the corporate priorities.

6. What will it cost and how will it affect other services?

- 6.1 There are no costs directly associated with the report other than the cost of publishing a notice in a newspaper informing the public of the adoption of a revised Code of Conduct.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

- 7.1 This report does not require an equality impact assessment.

8. What consultations have been carried out with Scrutiny and others?

- 8.1 At a meeting on 16th April, the Standards Committee considered the revisions brought into effect by the Order and resolved to recommend to Council that the revised Code of Conduct set out in Appendix 1 to this report be adopted.

9. Chief Finance Officer Statement

- 9.1 Other than publication of notices, there are no additional costs arising from the changes to the Code noted.

10. What risks are there and is there anything we can do to reduce them?

- 10.1 There are no risks directly associated with this report.

11. Power to make the Decision

- 11.1 Section 51 Local Government Act 2000.