

Report to	North Wales Fire and Rescue Authority
Date	15 April 2024
Lead Officer	Gareth Owens, Clerk
Contact Officer	Gareth Owens (01745 535286)
Subject	Rolling Review of Councillors' Code of Conduct



PURPOSE OF REPORT

- 1 To review the councillors' Code of Conduct (the Code) to ensure that it remains pertinent and up to date, especially in light of recommendations made within the Penn Review.

EXECUTIVE SUMMARY

- 2 In 2021 the Penn Review, amongst other things, made recommendations for changes to the councillors' Code of Conduct. The Standards Committee (the Committee) has considered the recommendations and suggests that the North Wales Fire and Rescue Authority (the Authority) makes a number of voluntary changes.

RECOMMENDATIONS

- 3 Members are asked to:
 - i) Include all the protected characteristics under the Equality Act 2010 within the prohibition on discrimination; and
 - ii) Amend the requirement to report criminal behaviour by others to also include reporting oneself where a councillor receives a conviction (other than a fixed penalty notice)

OBSERVATIONS FROM THE EXECUTIVE PANEL/AUDIT COMMITTEE

- 4 This report has not previously been considered by Members.

BACKGROUND

- 5 The Committee reviews each code and protocol once per Authority term to ensure that it remains up to date and pertinent. The Authority must adopt a Code of Conduct for councillors under s.52 Local Government Act 2000 and so the document remains pertinent.

- 6 In 2021 Welsh Government commissioned Richard Penn (a former local authority chief executive and former chair of the Independent Remuneration Panel for Wales) to review the ethical framework, i.e., the councillors' Code of Conduct and the mechanisms to support and enforce it.
- 7 The report arising from that review ("the Penn Review") made some recommendations for changes to the national model on which the Authority's councillors' Code of Conduct (the code) is based. That national model is a statutory document, and changes to that model will require legislation. Welsh Government is proposing to legislate but not until the next term of the Senedd, i.e. after 2026. The Authority can, if it wishes, voluntarily adopt some or all of the recommendations now, provided it is satisfied that doing so will not make the code any less onerous than the national model.

INFORMATION

- 8 The national model code includes a prohibition on discrimination. However, the national model was issued in 2008, that is to say prior to the Equality Act 2010, and does not include all the protected characteristic under that Act. The Penn Review recommended included all the protected characteristics so that it is consistent with the Act. The Committee recommends that the Authority does extend the prohibition in the code to include all protected characteristics.
- 9 There is also a lacuna within the Code at the moment. Councillors are required to report behaviour by others which they "reasonably believe involves or is likely to involve criminal behaviour". It doesn't include a similar obligation to report their own criminal behaviour. There is an important legal principle that a person cannot be required to incriminate themselves, but there have been situations where a councillor has been convicted of an offence without their council/authority being aware of the conviction. If an obligation to report one's own criminal behaviour were to be triggered by the imposition of a conviction then:
 - a. it would avoid a councillor incriminating themselves; and
 - b. it would avoid the requirement having any retrospective effect
- 10 The Committee was also concerned that there might be a long delay between safeguarding or other serious allegations being made against a councillor and a trial/conviction. The safeguarding procedures would consider whether action needed to be taken in respect of a councillor and whether it would be necessary to ask the Ombudsman to seek an interim suspension order.

IMPLICATIONS

Wellbeing Objectives	Considered not relevant
Budget for 2023/24	Considered not relevant
Legal	The role of the Committee under section 54 Local Government Act 2000 is: (a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and (b) assisting members and co-opted members of the authority to observe the authority's code of conduct.
Staffing	Considered not relevant
Equalities/Human Rights/ Welsh Language	It is not considered that there are any issues that need addressing as the recommendations apply equally to all Members regardless of protected characteristics under the Single Equality Act. Recommendation v will need legislation to as a legal basis for any interference with the right to freedom of political expression.
Risks	The risk of adopting changes now is that, when WG actually publishes legislation, the Authority's code might not match. It would then need further amendment to confirm with the national model.