

ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	COUNTY COUNCIL
DATE:	12 MAY 2016
TITLE OF REPORT :	TO ADOPT A NEW CODE OF CONDUCT FOR MEMBERS
REPORT BY :	LYNN BALL HEAD OF FUNCTION (COUNCIL BUSINESS) / MONITORING OFFICER
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PURPOSE OF REPORT :	TO COMPLY WITH THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (WALES) (AMENDMENT) ORDER 2016

1. BACKGROUND

- 1.1 All relevant Authorities in Wales are required to adopt a Code which sets out the conduct expected of elected Members. The Code has been prescribed by the Welsh Ministers since its introduction in 2000.
- 1.2 The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 came into force on the 1st April 2016 and the Order requires all relevant Authorities to adopt the new Code by no later than the 26th July 2016.
- 1.3 The Statutory Order amends some elements of the existing Code. Members need to be aware of those changes and the Council's Constitution must be amended to ensure that the changes are incorporated.
- 1.4 Once the new Code is adopted by the Council, Members are automatically bound by its provisions by virtue of Section 52(2) of the Local Government Act 2000 and the Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004.
- 1.5 In the circumstances there is no need for Members to sign a fresh undertaking to abide by the revised Code.

2. THE CHANGES TO THE MEMBERS' CODE OF CONDUCT

- 2.1 Members are no longer required to report, to the Ombudsman, conduct by another Member which is reasonably believed to be a breach of the Code of Conduct.

RATIONALE

The Ombudsman has made it clear that he wishes to focus limited resources on the most serious complaints, and therefore has introduced an enhanced threshold test for investigating alleged breaches. Not only does the Ombudsman require sufficient evidence be produced to demonstrate that there is a case to answer, but also that it is in the public interest for the allegation to be investigated.

Given this high threshold, it is no longer appropriate to place a legal obligation on Members to report all potential breaches of the Code; no matter that they will not be suitable for investigation.

Instead, Members are required to first raise their concerns with the local Monitoring Officer and to seek advice on whether the threshold test is met. Members here already seek this advice in any event so this should not result in any change of practice.

- 2.2 Section 10(2)(b) of the existing Code of Conduct is deleted. This is the provision which relates to a situation where a member of the public might reasonably perceive a conflict between a Member's role in representing their ward while at the same time acting on behalf of the County as a whole.

RATIONALE

It has become well established, through Guidance issued by the Ombudsman in September 2012, that this provision was a drafting error, and only ever intended to apply to members of the Executive taking decisions as Portfolio Holders (rather than as part of the Executive as a whole). This interpretation has been applied here since the Guidance came into force. This means that this change to the Code should not change this Council's current practice.

- 2.3 A new provision is introduced providing an additional right for Members to make written representations in circumstances where they have a prejudicial interest but where members of the public are allowed to attend meetings for the purpose of making representations. Any Member relying on this provision must comply with any procedure which the Council has adopted for submission of representations.

RATIONALE

To put Members in the same position as the public. Any Member in this position will not be able to debate or vote on the issue.

3. RECOMMENDATIONS

- 3.1 Council is asked to note the changes to the Code.

- 3.2 Council authorises the Monitoring Officer to amend the Constitution to incorporate the amendments to the Code and to publish the changes in accordance with the requirements of Section 51(b) of the Local Government Act 2000.