

COUNCIL:

29 JUNE 2023

**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES AND MONITORING OFFICER**

**AMENDMENT OF THE MEMBERS' CODE OF CONDUCT - ATTENDANCE
MANDATORY TRAINING**

Reason for this Report

1. To enable the Council to consider the Standards and Ethics Committee's recommended amendments to the Members' Code of Conduct in relation to Members' attendance at mandatory training.

Background

2. The conduct of elected Members is governed by the statutory Members' Code of Conduct adopted by each local authority in Wales under Part 3 of the Local Government Act 2000. The Code of Conduct must incorporate mandatory provisions of the statutory model code of conduct (issued under s.50 Local Government Act 2000, the Local Authorities (Model Code of Conduct)(Wales) Order 2008), and may include other provisions which are consistent with the model code.
3. In considering their duties under the Code of Conduct, Members must have regard to the statutory guidance issued by the Public Services Ombudsman for Wales (under section 68 of the Local Government Act 2000).
4. The Standards and Ethics Committee has responsibility 'To advise the Council on the effective implementation of the Code' and 'To recommend to Council and the Cabinet any additional guidance on issues of probity' (under its approved terms of reference, paragraphs (c) and (h)).
5. At the February 2023 Standards and Ethics Committee meeting, the Committee discussed mandatory training and action which could be taken to compel Members' attendance. The Committee noted that the new statutory duties of Group Leaders to take reasonable steps to promote and maintain high standards of conduct by members of their group, would require them to take steps to address any non-attendance at mandatory training by Members of their group; and that the Chair of the Standards and Ethics Committee would be asked to write to any individual Councillors who had not attended the mandatory Code of Conduct training.

6. The Committee also asked that consideration be given to incorporating a requirement to attend mandatory training within the Members' Code of Conduct, as a permitted local variation to the statutory model Code.

Issues

7. At the Standards and Ethics Committee meeting held on 9th May 2023, the Committee discussed with Group Leaders various issues relating to Member conduct, including Members' attendance at training sessions designated as mandatory by the Democratic Services Committee.
8. The Committee noted the updated figures on mandatory training attendance, which were provided by the Head of Democratic Services on the day of the meeting, confirmed that attendance rates are approximately 95% and higher, as shown in the table below:

All Members	Code of Conduct	IGDP	Equalities and Diversity	Corporate Parenting	Safeguarding
Total	78	76	75	77	77
Members	79	79	79	79	79
Percentage	98.73%	96.20%	94.94%	97.47%	97.47%

9. The Committee noted that repeat sessions for all mandatory training are offered on different days and at different times, and online sessions are also offered, in order to accommodate Members' availabilities as far as possible. However, it was also accepted that there are sometimes good reasons why a Member may be unable to attend training, for example, due to ill-health. Nevertheless, the Committee agreed that attendance at training, which has been designed as mandatory by the Democratic Services Committee, is important for Members to be able to properly discharge their functions and uphold high standards of conduct, and that non-attendance at such training, without good reason, should be an enforceable conduct issue. Accordingly, the Committee recommended that a requirement to attend mandatory training within a reasonable period should be incorporated as a suitably drafted amendment to the Members' Code of Conduct.
10. In discussion with Group Leaders, it was agreed that a reasonable time period for Members to complete mandatory training would be 6 months from the date when the training was first made available to the Member. However, there should be provision for this time period to be extended on request by the Head of Democratic Service if a particular Member has a good reason for requiring an extension of time. Also, that Members should be excused from attendance if they can provide evidence of having already attended equivalent and up to date training. The recommended amendments to the Members' Code of Conduct are shown as new paragraph 8(c) in **Appendix A**.

11. It should be noted that if a duty to attend mandatory training is incorporated within the Members' Code of Conduct, as shown in **Appendix A**, then any non-attendance at mandatory training, without good reason (as set out in the draft amendments to the Code), would constitute a breach of the Members' Code of Conduct. Any such breach of the Code may be the subject of a complaint under the conduct complaints process, and if upheld, the Member may become liable to sanctions.

Legal Implications

12. Under the Local Government Act 2000, section 51, a local authority may by resolution revise its Members' Code of Conduct. The revised Code must incorporate the mandatory provisions of the statutory Model Code of Conduct (referred to in paragraph 2 of the report) and may include other provisions which are consistent with the Model Code.
13. The recommended amendments to the Members' Code of Conduct require the approval of full Council.
14. If any amendments are made to the Members' Code of Conduct, the Council is required (under section 51(6) of the Local Government Act 2000), as soon as reasonably practicable, to publish a newspaper notice informing the public that the Code of Conduct has been revised and is available for inspection, make copies of the revised Code of Conduct available for public inspection and send a copy to the Public Services Ombudsman for Wales. The newspaper notice must be published in any newspaper published by the Council as well as in at least one other newspaper circulating in the Council's area.
15. Other relevant legal provisions are referred to in the body of the report.

Financial Implications

16. There are no financial implications arising directly from the recommendations of this report.

RECOMMENDATION

The Council is recommended to:

1. approve the recommended amendment of the Members' Code of Conduct, as shown in **Appendix A**; and
2. Instruct the Director of Governance and Legal Services and Monitoring Officer to issue the requisite notifications in relation to the amendment of the Members' Code of Conduct, as set out in paragraph 14 of the report, and update the Members' Code of Conduct within the Constitution, Part 5, accordingly.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

23 June 2023

Appendices

Appendix A Members' Code of Conduct, recommended amendments

Background papers

Standards and Ethics Committee report 'Group Leaders' Reports to Standards and Ethics Committee; and Potential Changes to the Members' Code of Conduct (Mandatory Training) and the Cardiff Undertaking, 9th May 2023