

Report of: Head of Law and Governance

To: Standards Committee

Date: 27th April 2012

Title of Report: CODE OF CONDUCT FOR MEMBERS, COMPLAINTS HANDLING AND ALLOCATION OF STANDARDS COMMITTEE OTHER FUNCTIONS

Summary and Recommendations

Purpose of report: To consider a draft Code of Conduct for Members and 'arrangements' for the handling of complaints in accordance with the requirements of the Localism Act 2011

Policy Framework: Not applicable

Report approved by: Legal

Recommendation(s): That the draft Code of Conduct and complaints handling arrangements be RECOMMENDED to Council for adoption to take effect immediately on the repeal of the present Code and arrangements.

Introduction

1. The Localism Act 2011 provides for the abolition of the present arrangements in relation to the promotion of high standards of ethical conduct on the part of Members.
2. The features of the present arrangements (introduced under the Local Government Act 2000) included a national mandatory Code of Conduct, a statutory Standards Committee with Parish Councillors and Independent Members (with statutory sanctions available to it) and a national body, Standards for England. All of those features are repealed by the Localism Act 2011 on a date to be fixed by secondary legislation (but announced as likely to be 1st July 2012).
3. The Localism Act 2011 does, however, retain the duty to promote and maintain high standards of conduct by Members and co-opted Members of the Authority. It also requires the Authority to adopt both a Code of Conduct and arrangements for the handling and determination of complaints of breaches of the adopted Code.

Code of Conduct

4. The Localism Act 2011 does not promote or require the adoption of a single national Code of Conduct. The Monitoring Officers of all the Oxfordshire Authorities (Oxfordshire County Council, West Oxfordshire District Council, South Oxfordshire District Council, Vale of White Horse District Council, Cherwell District Council and Oxford City Council) share the same view of the importance of having a single Code adopted by those Authorities and by the Parish Councils in their respective areas. That view is also endorsed by the Oxfordshire Association of Local Councils (the representative body for Parish Councils throughout the County).
5. The Monitoring Officers for the Oxfordshire Authorities meet regularly and at our last meeting we drafted Part 1 of a Code of Conduct. Part 1 relates to general behaviours. It was envisaged that Part 2 would deal with the registration and disclosure of interests. Regulations are still awaited, at the time of drafting this report, as to the definition of disclosable pecuniary interests. There is a further meeting of the Oxfordshire Monitoring Officers' Group scheduled for the 20th April and it is proposed therefore to circulate a final draft of the Code (Regulations permitting) as a late addition to the agenda for this meeting. Part 1 of the draft Code, as it stands at the moment, is attached as Appendix 1 to this report.
6. There are two alternative Codes of Conduct which have been promulgated nationally by the Local Government Association and the Department for Communities and Local Government which are attached as Appendix 2 and 3 respectively. Notwithstanding the existence of two national drafts, the local draft at Appendix 1 is preferred and, in its final form, is recommended for adoption.

Complaints arrangements

7. The statutory requirement to have a Standards Committee is repealed by the Localism Act 2011. Within Oxford the Standards Committee has enjoyed the trust and confidence of the Authority and the Parish Councils within the City. This has been due, in large measure, to the quality of representation provided by the Independent Members over the life of the Committee.
8. The Localism Act does not permit, however, the existing Independent Members to be the 'Independent Persons' which the Act requires to be appointed. The 'Independent Persons' are those whose views are to be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. That will inevitably result in a loss of expertise, both locally and nationally. Against that backdrop many Authorities, under the new Standards regime, will not be retaining a Standards Committee but will instead

seek to discharge their duties through informal 'Panel' type arrangements.

9. Within this Authority, all the political groups have expressed a wish to retain a Standards Committee. Attached as Appendix 4 to this report are draft arrangements for the handling of complaints, which reflect that wish. Those arrangements envisage a Standards Committee comprising of seven voting elected Members of the City Council together with one non-voting co-opted Member drawn from the four Parish Councils. In addition the Monitoring Officer and the Committee will be able to draw on the advice of an independent person or persons.
10. The Government has announced its intention to repeal the present Standards regime (made under the Local Government Act 2000) on the 1st July 2012. In anticipation of that being so the following timetable is proposed for the adoption of a new Code of Conduct and local complaints handling arrangements:
 - 27th April – Standards Committee
 - 23rd May - Council
11. At the meeting of Council on the 23rd May, arrangements will also have to be made for the reallocation of the existing functions of the Standards Committee. In short, it is proposed that the new Standards Committee will only retain the consideration of complaints of breaches of the Code of Conduct, making recommendations to Council on the adoption or revision of the Code of Conduct and making recommendations to Council on the overall 'arrangements'. Complaints monitoring will go to the Executive and residual functions (such as advising on Codes other than the Code of Conduct for members) will go to the Audit and Governance Committee.
12. The purpose of this report is therefore to invite the Committee to make a recommendation to Council as to the arrangements and the Code of Conduct to be adopted in anticipation of the repeal of the existing Standards arrangements on the 1st July 2012.
13. In so doing, could I place on record my thanks and gratitude as Monitoring Officer on behalf of myself and my colleagues to all the Independent Members who have served on the Committee. In particular, could I thank Mr John Lay who has served as Chair of the Committee, from its inception and who has guided the Committee throughout its present form.

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