

AUDIT COMMITTEE – 8 MAY 2012

TERMS OF REFERENCE AND COMPLAINTS PROCEDURES UNDER MEMBERS' CODE OF CONDUCT

Report by Head of Law and Governance

Introduction

1. Under the Localism Act 2011, the current standards regime for local authorities is due to be repealed on 1 July 2012. At its meeting on 20 March, the Council made some decisions as to the shape of future standards arrangements for Oxfordshire County Council under the Localism Act. These included the cessation of the Council's Standards Committee and a decision to transfer to the Audit Committee – as a newly-named Audit and Governance Committee – the responsibility for the overview of member standards. It was also agreed in principle that a member-officer working group, reporting to the Audit and Governance Committee, be appointed to consider complaints under the new standards arrangements.
2. On 15 May, Council will be asked to adopt a code of conduct which complies with the Localism Act 2011. It will also need to adopt arrangements for the consideration of alleged breaches of the Code. This report outlines the changes to the terms of reference of the Audit Committee envisaged under the widening of its role as the 'Audit and Governance Committee'. It also includes an outline of potential procedures for resolving complaints about breaches of any new code and how the member-officer working group might report to this Committee. The Committee is asked to comment on the draft terms of reference and complaints procedure.

Terms of reference and member complaints procedure

3. The Localism Act requires the Council to have in place arrangements for investigating and deciding on any allegations of a breach of any Code put in place from 1 July.
4. At its meeting on 20 March, Council agreed that such arrangements should include a member-officer working group along the lines of the existing Audit Working Group, thereby creating a pool of members who could be involved in handling complaints about Councillors under any revised Code of Conduct. Its work would be reported to the newly appointed Audit and Governance Committee, giving the assurance of formal member oversight. The Monitoring Officer would include reference to this work in his Annual Monitoring Report, which already goes to the Audit Committee. This group is referred to in the complaints procedure as the 'Members Advisory Group'. The Chairman of the

Audit and Governance Committee will include reference to this work in his/her annual report to Council.

5. Annex 1 contains proposed revised terms of reference for this committee (as the future 'Audit and Governance Committee') and Annex 2 contains an outline procedure for resolving complaints under any new code. The Committee is invited to comment on the terms of reference and the local procedures so that the Monitoring Officer can take these into account in presenting the local standards arrangements to Council for approval on 15 May.
6. The decision not to reappoint a standards committee but to transfer responsibility for member standards to this Committee has necessitated changes to the committee's terms of reference. In particular, these now reflect the committee's role in promoting standards, overseeing the members' code of conduct and receiving any reports from member advisory panels which may be called to investigate complaints about alleged breaches of the code.
7. The Monitoring Officers of Oxfordshire's principal authorities (this Council and the five district/city councils) have worked together to produce a single, consistent code of conduct for members which complies with the Localism Act 2011 and a code is scheduled to be adopted by Council on 15 May. However, each council's procedures for handling complaints about breaches of the code will be particular to each authority. In all cases save that of Oxford City, which is retaining a standards committee, arrangements will feature panels reporting to each council's audit committee.
8. The arrangements outlined in Annex 2 envisage a more proportionate approach than under the previous standards regime, in line with the Localism Act. This involves a role for the Monitoring Officer in determining whether a complaint merits formal investigation and if so how this should proceed. In accordance with the Act, the arrangements would have an advisory role for an 'Independent Person' recruited for the purpose following public advertisement.

The Monitoring Officer:

- will review every complaint received and, after consultation with an Independent Person take a decision as to whether it merits formal investigation
- may seek to resolve the complaint informally, without the need for a formal investigation
- will determine the procedure to be adopted if a decision is taken to undertake a formal investigation. This may involve the appointment of an Investigating Officer
- if, after investigation, there appears to be no evidence of a breach, communicate this to all relevant parties
- if there appears to be a breach, either refer the matter for local hearing before the Members Advisory Panel or, after consulting the Independent Person, seek local resolution
- if a Members Advisory Panel finds a breach of the Code, it may recommend certain sanctions to the Monitoring Officer. Neither the Panel nor the

Monitoring Officer has power to suspend or disqualify the Member or to withdraw Members' basic or special responsibility allowances

RECOMMENDATION

The Committee is RECOMMENDED to consider and comment upon the proposed terms of reference and the arrangements for considering complaints as outlined in Annexes 1 and 2 respectively.

Peter G Clark
County Solicitor & Monitoring Officer

Background papers:

The Localism Act 2011

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