

COUNCIL – 10 JULY 2012

MEMBERS' CODE OF CONDUCT AND REGISTRATION OF INTERESTS

Report by County Solicitor & Monitoring Officer

Introduction

1. At the Annual Meeting of Council this year, the Council formally adopted a new Members' Code of Conduct under the Localism Act 2011, to come into effect on 1 July 2012. At that time, Authorities were aware of the Coalition Government's intention that the previous standards arrangements would cease from the 1 July. However, the Regulations which would govern any future codes had not been issued at the time the Council needed to agree arrangements to apply from 1 July.
2. The Secretary of State has now issued Commencement Regulations that has brought these requirements into force. However, there is now some concern with the wording, which seems to imply that the power for the Council to adopt a new Code of Conduct as required under the Localism Act only came into force as from the date of implementing the Regulations (ie. 6 June 2012). In order for there to be no doubt with regards to the lawful adoption of a Code by this Council, Members are asked to reaffirm the Code that they agreed to adopt at their Annual Meeting this year.
3. This report affords the Council an opportunity to reaffirm its Code of Conduct to avoid all doubt as to its status, and to inform all Members of the arrangements now in place to brief and support Councillors and Co-Opted Members in meeting their obligations under the new Code of Conduct.

New Members' Code of Conduct and Register of Interests

4. The Code of Conduct (included in Annex 1 of this report) was approved by Council in May 2012 so that the Council would have arrangements in place to apply from 1 July, when the previous standards regime would cease.
5. Regulations were awaited as to the definition of disclosable pecuniary interests under the Localism Act. This has now been confirmed in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Monitoring Officer has confirmed that these do not necessitate any amendment to the Code as adopted.
6. Clarification of the requirements as to 'disclosable pecuniary interests' has allowed the Monitoring Officer to create a **Guide to the New Code of Conduct and Register of Interests**, included as Annex 1 to this report. In

addition, a Declarations of Interests Form has been created. This is the first opportunity for Members to be formally notified of these requirements. In addition, several briefings have been arranged for members by the Monitoring Officer to increase awareness of the new requirements and the contents of the Code.

7. In summary, the key changes for the disclosure of interests are as follows:
 - It is a criminal offence to fail to register a disclosable pecuniary interest, to fail to disclose such an interest if not registered at a relevant meeting of the Council or to provide false or misleading information on the register.
 - The concept of personal or personal and prejudicial interests will no longer apply
 - The need to register gifts and hospitality has ended unless this would in itself constitute a disclosable pecuniary interest.
 - There is no provision for a Councillor with a disclosable pecuniary interest to address a meeting of which that Member has an interest. Further guidance on this is awaited and the intention is to clarify the point as soon as possible. In the meantime members are advised that the safest course of action is to leave the meeting at the start of the item.
 - Detailed notes are attached to the register of members' interests form as to what constitutes disclosable pecuniary interests or those of the member or co-opted member and their spouse/partner or equivalent.

8. As the Regulations only require registration and declaration of 'disclosable pecuniary interests, there is currently no provision in the Code of Conduct relating to non-pecuniary interests. That is, there is no longer a requirement to register or disclose interests relating (as examples) to membership of other councils, or of organisations to which you have been appointed or nominated by your Council). These non-pecuniary interests will be subject to review by the Monitoring Officer over the next year as part of the constitutional review.

9. It is essential that the full implications of the Code are understood by Members and that due and proper regard continues to be paid to the perception of the public of Members' conduct, and that advice is sought from the Monitoring Officer in advance of any meeting if a Member is uncertain as to their position.

10. Members were informed at the last meeting that the Act made it explicitly clear that existing Independent Members on the Standards Committee were not eligible to be Independent Persons under the new arrangements. The Localism Act 2011 (Commencement Number 6 and Transitional, Savings and Transitory Provisions) Order 2012 was made by the Secretary of State on the 6 June 2012 which makes transitional arrangements that would allow current Independent Members to become eligible for appointment as Independent Persons provided they resign from that post before the 1 July 2012.

11. The Monitoring Officer has advertised for the posts of Interested Persons by way of public notice and arrangements for interviews to be undertaken in

readiness for appointment by Council at this meeting in order that the handling complaints arrangements can be fully put in force.

RECOMMENDATIONS

12. The Council is RECOMMENDED to:

- (a) confirm the adoption of the Members' Code of Conduct attached to the Guidance at Annex 1 to this report;**
- (b) encourage Members to attend the briefings arranged by the Monitoring Officer on the requirements of the new Code of Conduct;**
- (c) note the Guidance on the new Code of Conduct and Register of Interests at Annex 1 to this report.**

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Background papers: The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

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