

Division(s): N/A

COUNCIL – 15 MAY 2012

MEMBERS CODE OF CONDUCT AND COMPLAINTS PROCEDURE

Report by County Solicitor & Monitoring Officer

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 Under the Localism Act 2011, the current standards regime for local authorities is due to be repealed on 1 July 2012.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. Two further decisions now need to be made. Firstly, the Council is required formally to adopt a code of conduct to apply from 1 July 2012 in place of the current code. Annex 1 to this report contains a draft code for Council's consideration. This is based on an 'Oxfordshire' model prepared by the Monitoring Officers of this Council and the five Oxfordshire district councils. Secondly, at its meeting in March, Council asked the Monitoring Officer to suggest a potential procedure for considering complaints against members. This report outlines such a procedure for Council's approval and a copy is included at Annex 2.

New Members' Code of Conduct

3. Under the Localism Act, authorities may revise their existing code or adopt a new one to replace it. The code of conduct proposed at Annex 1 of this report has been produced jointly by the Monitoring Officers of the County Council and Oxfordshire's five district and city councils with the intention of replacing the codes currently in operation at these authorities with a new code consistent to them all. The proposed code fulfils the requirements of the Localism Act and has been prepared having regards to other drafts produced by the Department for Communities and Local Government and the Local Government Association. Oxfordshire's Monitoring Officers consider that the local draft is preferred for its clarity and practicality to members and the public. The Oxfordshire Association of Local Councils has also expressed support for the adoption of a consistent county-wide code.
4. Under the Localism Act, a Council's code must:

- (a) Be consistent with the seven named principles of:
 - (i) Selflessness
 - (ii) Integrity
 - (iii) Objectivity
 - (iv) Accountability
 - (v) Openness
 - (vi) Honesty and
 - (vii) Leadership
 - (b) Include provision for the registration and disclosure of pecuniary and non-pecuniary interests.
5. The draft new code fulfils these requirements and contains three brief sections:
- (a) Principles – a short description of behaviours under each principle;
 - (b) General obligations – such as confidentiality and mutual respect;
 - (c) Registering and declaring interests – a brief definition of including a short definition of the statutory.
6. The Localism Act abolishes the concepts of personal and prejudicial interests. The Monitoring Officer is required to maintain a register of interests, which must be available for public inspection and available on the Council's website.
7. Regulations are still awaited at the time of drafting this report as to the definition of disclosable pecuniary interests under the Localism Act. However, the draft code contains a bridging description of the procedure to be followed, from 1 July 2012, as regards pecuniary and non-pecuniary interests. This is taken from wording suggested by the Department of Communities and Local Government. It is considered that this reference is sufficient to enable the Council formally to adopt the code in its proposed format now without waiting for the publication of the formal Regulations. When the Regulations are published, consequential amendments could be made to the approved code by the Monitoring Officer.
8. In summary, the proposed code would, under the Act, require members to abide by the principles set out in the Code having regard to the definitions included in it. The registration and declaration of certain interests would be required and failure to register a disclosable interest on taking office would be a criminal offence; this latter requirement is new to the incoming standards regime and is intended to complement the otherwise lighter-touch regime.
9. Allegations of failure to comply with the code, once adopted, would be dealt with under the proposed complaints procedure outlined below, if approved by the Council.

Procedures for considering complaints

10. 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.

11. At its last meeting, 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. In short, the proposed complaints procedure would be proportionate and 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 also have an advisory role for an 'Independent Person' recruited for the purpose following public advertisement.
12. Annex 2 includes an outline procedure for Council's approval. This fulfils the requirements of the Act while also respecting the proportionate approach envisaged by the Coalition Government.

RECOMMENDATIONS

13. The Council is RECOMMENDED to:

- (a) **approve and adopt the Members' Code of Conduct at Annex 1 of this report, to take effect from 1 July 2012 on the repeal of the present Code and standards arrangements;**
- (b) **require the Monitoring Officer to make any consequential amendments to the approved Code on the publication by the Secretary of State of Regulations relating to the registration and declaration of interests;**
- (c) **approve the complaints resolution procedures outlined at Annex 2 of this report as the means of resolving allegations that members have not complied with the Code.**

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Background papers:

The Localism Act 2011

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