

**Meeting:** COUNCIL  
**Date:** 18 JULY 2012

**Agenda Item:**

**12**

## **NEW STANDARDS REGIME FOR MEMBERS**

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### **1 PURPOSE**

- 1.1 To Adopt a new standards regime for Members under the Localism Act 2011 ('the Act')

### **2 RECOMMENDATIONS**

- 2.1 That the Council notes the report to Standards Committee attached as Appendix A and the recommendations of that Committee detailed at paragraph 3.3 that have been incorporated into the following recommendations.
- 2.2 That the Council adopts a Code of Conduct in the draft form set out in Appendix C.
- 2.3 That in addition to the registration and disclosure of Disclosable Pecuniary Interests required by the Act the Council determines that Members should register the interests set out in the draft form of Code of Conduct. (Appendix C).
- 2.4 That a Standing Order is adopted excluding a Member from a meeting who is prohibited from voting or participating in discussions at the meeting because he or she has a Disclosable Pecuniary Interest.
- 2.5 That the Arrangements for dealing with standards allegations set out in Appendix D to the report are adopted.
- 2.6 That Allen Holland be appointed as the Independent Person pursuant to Section 28 of the Act for a period of four years subject to any statutory restriction on the length of term of office or prior termination of the appointment by the Council.
- 2.7 That a new Standards Committee is appointed with the composition and terms of reference as set out in Appendix E
- 2.8 That a Chair and Vice Chair of the Standards Committee be appointed.

- 2.9 That the Borough Solicitor is appointed as the Proper Officer for the purposes of Section 33 of the Act.
- 2.10 That the Borough Solicitor arranges training on the new Standards Regime for all members as soon as is convenient for the Council.
- 2.11 To note that Full Council may amend the Code and Arrangements for dealing with standards allegations at any time.

### **3 BACKGROUND AND REASONS FOR RECOMMENDED COURSE OF ACTION**

- 3.1 With effect from 1<sup>st</sup> July 2012 the Localism Act has abolished in its entirety the ethical standards regime for members created under the Local Government Act 2000 and replaced it with a more flexible regime though one which greatly restricts the powers of local authorities and standards committees to sanction members who are in breach of the required standards of conduct.
- 3.2 In short, while the Council must promote and maintain high standards of conduct by members and co opted members, it has discretion over the form of Code of Conduct for Members providing it is consistent certain principles set out in the Act. The Council must also make arrangements for dealing with standards allegations and decide whether or not to appoint a Standards Committee. The details of these changes are set out in the Standards Committee report of 5<sup>th</sup> March 2012 attached at Appendix B.
- 3.3 Following this report the Standards Committee subsequently considered (see Appendix A ) certain elements of the new regime and made the following recommendations to Council though the necessary statutory instruments bringing the new regime into force had not at the time been made –
  - 1. That it be recommended to Council that the form and content of the Code of Conduct for Members be based upon the existing code as detailed in appendix 3 to the report.
  - 2. That it be recommended to Council that the £25 limit on gifts and hospitality remain unchanged.
  - 3. That it be recommended to Council that the current regime whereby Members with prejudicial interests are required to leave the room and not take part in any debate or vote be continued.
  - 4. That it be recommended to Council that provisions are made to allow Members who have disclosed an interest at a meeting to attend and vote on a matter in respect of financial and other support to voluntary or community bodies to which the Member has been appointed by the Council.

5. That the adoption of arrangements for the investigation and making decisions on complaints that Members have breached the Code of Conduct, as detailed at appendix 4 to the report, be approved and recommended to Council.

6. That it be noted that the Council will have the ability to review and revise these arrangements at any time.

These recommendations are included in the proposed new code and arrangements for dealing with standards complaints including the appointment of a standards committee.

- 3.4 In response to the Act local authorities are adopting varying codes and arrangements though it is believed that many are choosing to retain, as far as is permitted by the Act, much of the old regime and most are choosing to adopt a Standards Committee. In spite of this, the Local Government Minister has recently written to all local authority leaders advising that ...'it will be important that all can clearly see your new arrangements are not some modified continuation of the old discredited regime, but rather a fresh start creating genuine trust and accountability between your council and local people.'
- 3.5 The Council is also required to appoint an Independent Person. Transitional provisions allow the appointment of a (now former) independent member of the old Standards Committee. An amendment to these provisions will restrict any such appointment to one year but not those made before 24<sup>th</sup> July 2012. The Chief Executive recommends that Allen Holland, the former independent chair of the Standards Committee, is appointed for a term of 4 years subject to this being curtailed by any further statutory instrument. Mr. Holland has submitted an application in response to an advertisement on the Council's website.
- 3.6 The Council must also determine what should be entered on the register of Members' and Co-opted Members' interests. The Standards Committee was unable properly to consider or recommend what interests Members should register or disclose at meetings as the relevant statutory instrument defining 'disclosable pecuniary interests' was only issued in June. However, the committee's view was that the combined register of DPI's and additional interests should include the categories which were in place under the old regime.
- 3.7 There have been some general concerns and some uncertainty about the implications and interpretation of the new provisions for registering DPI's and also how they should be supplemented by local requirements.
- 3.8 The Chief Executive has, however, written to all members asking them to complete a discrete register of disclosable pecuniary interests'. The majority of members have now completed this and it is proposed that for the time being that the register of interests under the old regime which has regularly been updated by members is, continued alongside the new DPI register. The

combination of these two registers covers all the requirements for the registration of interests in the draft new code.

- 3.9 There is no longer a legal requirement at meetings for Members to declare any interests other than DPIs. Similarly the new regime does not put members under a disability except where they have a DPI. As a result Members will generally be permitted, provided it is not a DPI and/or there is no risk of bias, to attend a meeting and vote on a matter where they have an interest that relates to a voluntary or community body with which the Member is involved.
- 3.10 In a change from previous arrangements there appear to be no exemptions from the disability imposed where a Member has a DPI. So, for instance, Members who are council tenants or who rent garages from the Council may not take part in relevant debates unless they have been granted a dispensation. S.33 of the Act sets out a procedure for Members to request a dispensation by way of written request to the 'proper officer' and for the avoidance of doubt it is proposed that the Borough Solicitor (Monitoring Officer) is nominated as the proper officer for these purposes.
- 3.11 The Council should, strictly speaking, have had taken the decisions set out above in time for implementation on 1<sup>st</sup> July. However, the necessary statutory instruments were only notified to local authorities on 7<sup>th</sup> June leaving too little time to take the necessary steps and call an extraordinary Council meeting. It is understood that many, if not most, local authorities similarly failed to comply with this timetable.
- 3.12 The Standards Committee also recommended that the council should require Members to leave the meeting room when they have a DPI.

## **5 IMPLICATIONS**

Contained in the report

## **APPENDICES**

- Appendix A - Report to Standards Committee 6 June 2012
- Appendix B – Report to Standards Committee 5 March 2012
- Appendix C – Proposed Code of Conduct and Register of Interests
- Appendix D – Proposed arrangements for dealing with Standards Allegations
- Appendix E – Proposed Standards Committee Terms of Reference

## **BACKGROUND PAPERS**

- 28<sup>th</sup> June 2012 - Letter from the Local Government Minister, Bob Neill to local authority leaders.
- See appended reports