

**Committee:** Standards Committee  
**Date:** Thursday 10 May 2012  
**Time:** 6.30 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

### Membership

<b>Dr Sadie Reynolds (Chairman)</b>	<b>Derek Bacon (Vice-Chairman)</b>
<b>Councillor Andrew Beere</b>	<b>Councillor Fred Blackwell</b>
<b>Councillor Timothy Hallchurch MBE</b>	<b>Councillor Chris Heath</b>
<b>Councillor Russell Hurle</b>	<b>Councillor James Macnamara</b>
<b>Councillor Rose Stratford</b>	<b>Councillor Douglas Williamson</b>
<b>Kenneth Hawtin</b>	<b>Councillor David Carr</b>
<b>Councillor John Coley</b>	

### Substitutes

**Councillor Ken Atack**  
**Councillor Colin Clarke**  
**Councillor Margaret Cullip**  
**Councillor Mrs Diana Edwards**  
**Councillor Tim Emptage**  
**Councillor P A O'Sullivan**  
**Councillor Leslie F Sibley**  
**Councillor Lawrie Stratford**

## AGENDA

- 1. Apologies for Absence and Notification of Substitute Members**
- 2. Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.

- 3. Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

#### **4. Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

#### **5. Minutes (Pages 1 - 10)**

To confirm as a correct record the Minutes of the meeting of the Committee held on 7 March 2012.

#### **6. The New Standards Regime - Proposed Arrangements (Pages 11 - 26)**

Report of Head of Law and Governance / Monitoring Officer

##### **Summary**

To enable the Committee to finalise its recommendations to Council on 16 May 2012 on the form of a code of conduct for members to be adopted with effect from the relevant legislative date (currently anticipated to be 1 July 2012) and on the nature, composition and terms of reference of the elected member body to be responsible for the arrangements that are statutorily required to ensure that the Council can investigate allegations of misconduct by district and parish councillors and determine an appropriate outcome. Further to enable the Committee to recommend to Council the number of independent persons to be appointed, the appointment and remuneration process and the delegation of authority to the Monitoring Officer to enable the necessary legal arrangements to be introduced.

##### **Recommendations**

That Standards Committee recommends to Council:

- (1) The adoption of the code of conduct at Appendix 1 with effect from 1 July 2012 or such other date as is legislatively required ("the effective date") and its endorsement for adoption by the Town and Parish Councils in Cherwell District.
- (2) Such nature and composition of elected member body as it considers appropriate for the purpose of hearing and determining complaints of Councillor misconduct such body to have the terms of reference set out at Appendix 4 and to be established from the effective date to replace the current Standards Committee.
- (3) That two independent persons be appointed by Council at a future date on the recommendation of a panel comprising two members of the elected member body plus the Head of Law and Governance and that authority to fix an initial allowance payment for such persons be delegated to the Head of Law and Governance in consultation with the Head of Finance and Procurement.
- (4) That authority be delegated to the Head of Law and Governance to take the necessary steps to establish a register of interests for District, Town and Parish Councillors and the required arrangements (including a complaints

procedure and a hearing procedure) pending formal consideration by the elected member body in due course.

## **Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

### **Information about this Meeting**

#### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 221589 prior to the start of the meeting.

#### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item. The definition of personal and prejudicial interests is set out in the constitution. The Democratic Support Officer will have a copy available for inspection at all meetings.

**Personal Interest:** Members must declare the interest but may stay in the room, debate and vote on the issue.

**Prejudicial Interest:** Member must withdraw from the meeting room and should inform the Chairman accordingly.

With the exception of the some very specific circumstances, a Member with a personal interest also has a prejudicial interest if it is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

#### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

#### **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

#### **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

**Mobile Phones**

Please ensure that any device is switched to silent operation or switched off.

**Queries Regarding this Agenda**

Please contact Natasha Clark, Democratic and Elections  
natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

**Sue Smith**  
**Chief Executive**

Published on Tuesday 1 May 2012

# Agenda Item 5

## Cherwell District Council

### Standards Committee

Minutes of a meeting of the Standards Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 7 March 2012 at 6.30 pm

Present: Dr Sadie Reynolds (Chairman)  
Derek Bacon (Vice-Chairman)

Councillor Andrew Beere  
Councillor Fred Blackwell  
Councillor Chris Heath  
Councillor Russell Hurle  
Councillor James Macnamara  
Kenneth Hawtin  
Councillor David Carr

Substitute Members: Councillor Ken Atack (In place of Councillor Timothy Hallchurch MBE)

Apologies for absence: Councillor Timothy Hallchurch MBE  
Councillor Rose Stratford  
Councillor Douglas Williamson  
Councillor John Coley

Officers: Kevin Lane, Head of Law and Governance / Monitoring Officer  
Natasha Clark, Team Leader, Democratic and Elections

#### 1 **Appointment of Chairman**

##### **Resolved**

That Dr Sadie Reynolds be appointed Chairman for the remainder of the municipal year 2011/12.

#### 2 **Appointment of Vice-Chairman**

##### **Resolved**

That Derek Bacon be appointed Vice-Chairman for the remainder of the municipal year 2011/12.

#### 3 **Declarations of Interest**

There were no declarations of interest.

4 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

5 **Urgent Business**

There was no urgent business.

6 **Minutes**

The minutes of the meeting held on 21 March 2011 were agreed as a correct record and signed by the Chairman.

7 **Localism Act 2011 - The New Standards Regime**

The Head of Law and Governance submitted a report which enabled the Committee to receive a summary of the provisions of the Localism Act 2011 in so far as they affect the standards regime, consider a number of issues with a view to formulating appropriate future recommendations to Council and agree to receive a further report at a future meeting when both a model code of conduct and details of the proposed legislation on Disclosable Pecuniary Interests were known in order to formulate a set of final recommendations to Council.

In introducing the report, the Head of Law and Governance explained that the Localism Act 2011 had received royal assent on 1 November 2011 and the changes to the standards regime were due to come into force on 1 July 2012. Under the Act the Council would remain under a statutory duty to promote and maintain high standards of conduct for elected and co-opted members and would continue to have responsibility for town/parish councils with regards to standards conduct and complaints.

The Committee was advised that all authorities would be required to have a Code of Conduct although they would have discretion about what was included within the Code. As yet no model codes were available although the Local Government Association was drafting one.

In response to Members' comments about the possibility of adopting a similar Code of Conduct across Oxfordshire at all tiers of government, the Head of Law and Governance reported that Oxfordshire Monitoring Officers were seeking to develop a cross-county code. This would be particularly helpful for Councillors who were elected to serve on more than one authority.

The Head of Law and Governance advised the Committee that legislation on Member interests relating to pecuniary, non-pecuniary and Disclosable pecuniary interests had not yet been published. The Committee was therefore being asked to consider and form a preliminary view on seven key issues at this stage and agree final recommendations to Council at a future meeting once the legislation was available.

### **Issue 1 – Nature and Composition of Member Body**

The Head of Law and Governance advised the Committee that whilst the Localism Act repealed the provisions of the Local Government Act 2000 which provided for the existing mandatory Standards Committee, there would still be a need to deal with standards issues and case-work but local authorities had flexibility to determine their own arrangements.

The Committee recalled that at their meeting in March 2011, they had considered the proposals in the Localism Bill, and, in light of the information at that time, had taken the view that the Standards Committee should be abolished and the responsibilities transferred to the Accounts, Audit and Risk Committee.

In considering the options, the Committee noted that the provisions in the Act pertaining to Standards differed from the proposals in the Bill. In particular it would be mandatory to have a Code of Conduct and the district would retain responsibility for town and parish councils. Some Members of the Committee commented that at the time of the 2011 Standards Committee and with the proposals at that time, it was deemed appropriate for standards matters to pass to the Accounts, Audit and Risk Committee, however it was no longer clear if this was still appropriate. Some Members expressed the view that the remit could still transfer to the Accounts, Audit and Risk Committee and highlighted that the Council had received no complaints about District Councillors during its existence and few about Parish Councillors.

The Committee noted that the legislation no longer required town/parish council representatives to be involved in standards matters. Whilst it would be possible to co-opt, the representatives would not have voting rights. Additionally, should the standards remit be transferred to the Accounts, Audit and Risk Committee, the majority of the remit of that Committee was not relevant to any co-opted Parish Councillor.

The Committee agreed that it was difficult to determine what kind of Standards Committee/arrangements to recommend without having sight of the Code of Conduct although the prevailing view was that a free standing Committee was probably most appropriate. Notwithstanding, whatever form it took, the purpose should be to promote and maintain high standards and consider complaints as appropriate.

### **Issue 2 – Content of New Code of Conduct**

The Committee was advised that the existing Model Code of Conduct would be repealed and Councils would be required to adopt a new Code which complied with seven principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and contained requirements for interests.

The Committee agreed that a recommended form of Code should be considered at their next meeting when the proposed LGA model code was available. In the meantime, the Committee endorsed the approach of the Monitoring Officer, in liaison where possible with his Oxfordshire counterparts, to seek to achieve a common code of conduct in the district, and if possible the county, at all levels of local authority.

### Issue 3 – Nature of “Arrangements”

The Head of Law and Governance explained that the Localism Act required that the Council adopt “arrangements” for dealing with complaints of breach of the Code of Conduct by both District and Town/Parish Councillors.

The Committee agreed that this should be considered in detail at the next meeting but in the meantime the following broad principles should be included in the draft arrangements that would be submitted for consideration:

- That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation or not and to arrange such investigation. He be instructed to seek resolution of complaints without formal investigation as the severity of the complaint requires wherever practicable, and that he be given discretion to refer decisions of investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to the Standards Committee on the discharge of this function;
- Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be instructed to close the matter, providing a copy of the report and findings to the Independent Person, and reporting the findings to the Standards Committee for information;
- Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report or information to the Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing.
- That Council delegate to the Standards Committee (or a Hearings Panel Sub Committee) such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
  - Reporting its findings to Council [*or to the Town/Parish Council*] for information;
  - Recommending to the Member’s Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - Recommending to the Leader of the Council that the Member be removed from Cabinet, or removed from particular portfolio responsibilities;
  - Instructing the Monitoring Officer to [*or recommending that the Town/Parish Council*] arrange training for the Member;
  - Removing the Member [*or recommending to the Town/Parish Council that the Member be removed*] from all outside body appointments to which he/she has been appointed or nominated by the authority [*or by the Town/Parish Council*];



- *Withdrawing [or recommending to the Town/Parish Council that it withdraws]* facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- *Excluding [or recommending that the Town/Parish Council exclude]* the Member from the Council's officers or other premises with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings.

#### **Issue 4 – Appointment of Independent Person(s) and Nature of Role**

The Committee was advised that the "arrangements" adopted by the Council must include provision for the appointment by the Council of at least one independent person. This person must be appointed through a public advertisement, application and appointment by a positive vote of a majority of all members of the District Council. Additionally, there would be specific requirements for the Independent Person not to have not been involved with the Council (e.g. as an employee, elected Member or co-opted member) for five years prior to appointment although it was anticipated that transitional arrangements might be put in place that would permit the appointment of a current independent member of the Standards Committee for a limited period of time.

The Committee agreed that the final recommendations on this issue should be determined at the next meeting of the Committee but took the preliminary view that it would be appropriate to seek to appoint two Independent Persons to ensure resilience and to avoid potential conflicts of interest. Additionally, the Monitoring Officer, in consultation with the Head of Finance and Procurement, should be authorised to set the initial allowance and expenses for the Independent Persons and the function subsequently delegated to the Standards Committee. Furthermore, the Monitoring Officer should advertise a vacancy for two Independent Persons and a Panel comprising two current Standards Committee members and the Monitoring Officer should be set up to short list and interview candidates and to make a recommendation to Council for appointment. Subject to the proposed transitional provision being confirmed, any current member of the Standards Committee who resigns that membership by 30 June 2012 should be permitted to apply to be the Independent Person for such interim period as is permitted.

#### **Issue 5 – Register of Members' Interests**

The Head of Law and Governance advised the Committee that the Localism Act abolished the concepts of personal and prejudicial interests. Regulations would define Disclosable Pecuniary Interests and the Monitoring Officer would be required to maintain a register of interests for both District and Town/Parish Councillors and they should all be available for inspection and on the District Council's website.

The Committee noted that the provisions of the Act relating to Members' Interests and the fact that Regulations covering the nature of Disclosable Pecuniary Interests were still awaited and agreed to consider the detailed arrangements that will be required for the necessary register, including the identification of any non-disclosable pecuniary interests and pecuniary interests that it is recommended should be registered pursuant to the new code, at their next meeting.

### **Issue 6 – Disclosure of Interests and Withdrawal from Meetings**

The Committee noted the proposed arrangements regarding disclosure of interests and withdrawal from meetings and agreed that the inclusion of a provision in the Council's Constitution requiring a Member, in the absence of any dispensation being granted otherwise, to withdraw from the meeting when he/she has a Disclosable Pecuniary Interest in any item of business at a relevant meeting should be supported and included as part of the final recommendations to Council in due course.

### **Issue 7 – Determination of Applications for Dispensation**

The Head of Law and Governance advised the Committee that the Localism Act significantly changed the provisions on dispensations. In considering this issue, the Committee agreed that the final recommendations to Council should include that the determination of dispensation applications under the grounds "that so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would impede the transaction of the business (be inquorate as a result)" and "that, without a dispensation, no member of the Cabinet would be able to participate on a matter" be delegated to the Monitoring Officer in consultation with the Independent Person with a right of appeal against refusal to the Standards Committee; and, that the determination of applications on all other grounds be delegated to the Standards Committee. The Monitoring Officer/Standards Committee should only apply dispensations to District Councillors and Town/Parish Councils should agree their own arrangements for granting dispensations.

Members commented that it would important to raise of awareness of the changes for all district and parish councillors.

### **Resolved**

- (1) That the summary of the provisions of the Localism Act 2011 ("the Act") that relate to the new standards regime be noted.
- (2) That having considered the specific issues identified the following preliminary views on likely future recommendations to Council be agreed:
  - a. **Issue 1 – Nature and Composition of Member Body:** That consideration of the type of Standards Committee be deferred until the proposed model Code of Conduct is available.
  - b. **Issue 2 – Content of New Code of Conduct:** That this be considered at the next meeting of the Committee when the proposed LGA model code was available but in the meantime, the approach of the Monitoring Officer, in liaison where possible with his Oxfordshire counterparts, to seek to achieve a common code of conduct in the District, and if possible the County, at all levels of local authority be endorsed.
  - c. **Issue 3 – Nature of "Arrangements":** That this be considered in detail at the next meeting but in the meantime the following broad principles should be included:

- That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
  - That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation or not and to arrange such investigation.
  - That the Monitoring Officer be instructed to seek resolution of complaints without formal investigation as the severity of the complaint requires wherever practicable, and that he be given discretion to refer decisions of investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to the Standards Committee on the discharge of this function;
  - That where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be instructed to close the matter, providing a copy of the report and findings to the Independent Person, and reporting the findings to the Standards Committee for information;
  - That where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report or information to the Standards Committee.
  - That where such local resolution is not appropriate or not possible, the Monitoring Officer is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;
  - That Council delegate to the Standards Committee (or a Hearings Panel Sub Committee) such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include those listed under Issue 3 above.
- d. **Issue 4 – Appointment of Independent Person(s) and Nature of Role:** That the final recommendations on this issue be determined at the next meeting of the Committee but the preliminary view be that:
- the Monitoring Officer, in consultation with the Head of Finance and Procurement, be authorised to set the initial allowance and expenses for the Independent Person(s) and that this function be subsequently delegated to the Standards Committee;
  - the Monitoring Officer advertise a vacancy for two Independent Persons;
  - a Panel comprising two current Standards Committee members and the Monitoring Officer be set up to short list and interview candidates and to make a recommendation to Council or appointment; and, that, subject to the proposed transitional provision being confirmed, any current member of the Standards Committee who resigns that membership by 30 June 2012 be

permitted to apply to be the Independent Person for such interim period as is permitted.

- e. **Issue 5 – Register of Members’ Interests:** That the provisions of the Act relating to Members’ Interests and the fact that Regulations covering the nature of Disclosable Pecuniary Interests were still awaited be noted; and that it be agreed to consider at the next Standards Committee meeting the detailed arrangements that will be required for the necessary register, including the identification of any non-disclosable pecuniary interests and pecuniary interests that it is recommended should be registered pursuant to the new code.
  - f. **Issue 6 – Disclosure of Interests and Withdrawal from Meetings:** That the inclusion of a provision in the Council’s Constitution requiring a Member, in the absence of any dispensation being granted otherwise, to withdraw from the meeting when he/she has a Disclosable Pecuniary Interest on any item of business at a relevant meeting be supported and that this be included as part of the final recommendations to Council in due course.
  - g. **Issue 7 – Determination of Applications for Dispensation:** That the final recommendations to Council include that the determination of dispensation applications for District Councillors under the grounds referred to under Issue 7 above be delegated to the Monitoring Officer in consultation with the Independent Person with a right of appeal against refusal to the Standards Committee; and, that the determination of applications on all other grounds be delegated to the Standards Committee; and, that Town/Parish Councils should apply their own dispensations.
- (3) That it be agreed to receive a further report at a subsequent meeting to consider and formulate a set of full and final recommendations to Council once a mode code of conduct and the legislation relating to Disclosable Pecuniary Interests were available.

8 **Exclusion of Public and Press**

**Resolved**

That, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of that Act.

9 **Minutes of meeting Thursday 15 September 2011 of Standards Assessment Sub-Committee**

The Minutes of the meeting of the Standards Assessment Sub-Committee held on 15 September 2011 were noted.

10 **Minutes of meeting Thursday 10 November 2011 of Standards Assessment Sub-Committee**

The Minutes of the meeting of the Standards Assessment Sub-Committee held on 10 November 2011 were noted.

11 **Minutes of meeting Wednesday 21 December 2011 of Standards Assessment Sub-Committee**

The Minutes of the meeting of the Standards Assessment Sub-Committee held on 21 December 2011 were noted.

The meeting ended at 8.00 pm

Chairman:

Date:

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## Standards Committee

### The New Standards Regime – Proposed Arrangements

10 May 2012

### Report of Head of Law and Governance/Monitoring Officer

#### PURPOSE OF REPORT

To enable the Committee to finalise its recommendations to Council on 16 May 2012 on the form of a code of conduct for members to be adopted with effect from the relevant legislative date (currently anticipated to be 1 July 2012) and on the nature, composition and terms of reference of the elected member body to be responsible for the arrangements that are statutorily required to ensure that the Council can investigate allegations of misconduct by district and parish councillors and determine an appropriate outcome. Further to enable the Committee to recommend to Council the number of independent persons to be appointed, the appointment and remuneration process and the delegation of authority to the Monitoring Officer to enable the necessary legal arrangements to be introduced.

This report is public
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#### **Recommendations**

That Standards Committee recommends to Council:

- (1) The adoption of the code of conduct at Appendix 1 with effect from 1 July 2012 or such other date as is legislatively required (“the effective date”) and its endorsement for adoption by the Town and Parish Councils in Cherwell District.
- (2) Such nature and composition of elected member body as it considers appropriate for the purpose of hearing and determining complaints of Councillor misconduct such body to have the terms of reference set out at Appendix 4 and to be established from the effective date to replace the current Standards Committee.
- (3) That two independent persons be appointed by Council at a future date on the recommendation of a panel comprising two members of the elected member body plus the Head of Law and Governance and that authority to fix an initial allowance payment for such persons be delegated to the Head of Law and Governance in consultation with the Head of Finance and Procurement.

- (4) That authority be delegated to the Head of Law and Governance to take the necessary steps to establish a register of interests for District, Town and Parish Councillors and the required arrangements (including a complaints procedure and a hearing procedure) pending formal consideration by the elected member body in due course.

## **Executive Summary**

### **Introduction**

- 1.1 The Localism Act 2011 makes major changes to the standards regime which are due to come into effect on 1 July 2012 although there remains the possibility that this date might slip. Assuming that the date holds good this means that the arrangements to be introduced by this Council will need the formal approval of the Council meeting on 16 May 2012 as this is the last Council meeting before the effective date.

### **Previous Consideration**

- 1.2 At its meeting on 7 March 2012 (see the minutes elsewhere on this agenda) the Committee considered a number of issues and reached a preliminary view on them in anticipation of receiving a further report and finalising its recommendations to Council then. This is that further report although matters have not progressed in the meantime as had been hoped in that the necessary Regulations covering disclosable pecuniary interests have still to emerge and, while the LGA did produce a recommended form of code of conduct, this was not the expected widely supported model code but rather a version that did not have the support of both members and professional officer organisations and is perceived to have some flaws.

### **Proposed Approach**

- 1.3 The Committee is therefore recommended to approve the form of Code at Appendix 1 for recommendation to Council, this being the form of Code being recommended for adoption by all principal authorities in Oxfordshire by the respective monitoring officers. The Committee is also recommended to finalise its recommendations to Council on the nature and composition of the necessary elected member body, the proposed terms of reference for that body, the number of independent persons to be appointed and the appointment and remuneration process. Finally delegated authority is sought to enable the mandatory register of interests and all other arrangements to be introduced by the Council in a legally compliant way.



## **Background Information**

### **Code of Conduct**

- 2.1 At its previous meeting the Committee endorsed the proposed approach of the monitoring officers in Oxfordshire to seek to ensure as far as practicable the adoption of a common code at County, District and Parish levels. The recommended form of code for this purpose is at Appendix 1. This is anticipated to be the final version but, in the event that any changes to the draft are proposed by any Standards Committee meeting elsewhere in the County in the meantime, an amended version will be tabled for consideration at the meeting. While parish councils cannot be obliged to adopt this form of code they will be encouraged to do so by both their monitoring officer and by the Oxfordshire Association of Local Councils.
- 2.2 For the Committee's information the LGA promoted code referred to above can be seen at Appendix 2 and a further version, unexpectedly produced by the Department of Communities and Local Government, can be seen at Appendix 3.

### **Nature and composition of elected member body**

- 2.3 At its previous meeting the Committee agreed to finalise its recommendations at this meeting although the prevailing preliminary view was that there needed to be a free standing committee of possibly 8 members for this purpose as opposed to the previously supported proposal to subsume this role within the remit of the Accounts Audit and Risk Committee. It saw no need for a mandatory Executive member to be required and noted that, if a parish council representative was to be appointed it would be on a co-opted, non voting, basis only. The Committee is now requested to finalise its recommendations on this on the basis that the a free standing body, like the Accounts, Audit and Risk Committee, would be a Local Government Act 1972 committee which means that the political balance rules would apply to it unlike the current Standards Committee.
- 2.4 The proposed terms of reference for the elected member body are at Appendix 4. Clearly if the role is to be part of the remit of the Accounts, Audit and Risk Committee it would be a case of augmenting that Committee's existing terms of reference accordingly.

### **Independent Persons**

- 2.5 As previously reported there must be at least one independent person appointed by full Council as part of the arrangements. In order to ensure adequate cover, and prevent difficulties arising over conflicts of interest, the Committee's preliminary view was that two such persons should be appointed, that there should be an appointing panel comprising two members of this Committee and the monitoring officer and that an initial allowance should be set by the monitoring officer in consultation with the Head of Finance and Procurement prior to the rate being formally set by the new elected member

body. It is suggested that it would be more appropriate for the two panel members to be elected members of the new body but, subject to this, the Committee is requested to confirm its recommendations to Council in this regard.

- 2.6 The transitional provision referred to at the last meeting is still anticipated and, if this is enacted, the current independent members of this Committee will be advised so that they are able to apply for appointment as an independent person should they so wish.

### **Register of Interests**

- 2.7 As the promised Regulations dealing with disclosable pecuniary interests (“DPIs”) have yet to be enacted it is not possible for any further consideration to be given to the form and content of this register ahead of the Council meeting on 16 May 2012. In order to ensure that the register can be put into effect by the effective date it will therefore be necessary for Council to delegate authority to the monitoring officer to take the appropriate steps to establish the register and ensure that all District and Parish Councillors are aware of their legal obligation to register DPIs. Should the Regulations emerge by the time of the Committee meeting members will be advised accordingly.

### **Other Arrangements**

- 2.8 As previously reported the Council is also legally obliged to adopt arrangements for dealing with complaints of breach of the code of conduct such arrangements to include the process for dealing with complaints and the actions which may be taken against a member who is found to have acted in breach. Given time constraints and the requirement to have the arrangements in place by the effective date it is suggested that Council be recommended to delegate authority to the monitoring officer to establish these arrangements on an interim basis so that they are effective until endorsed or amended by the elected member body in due course.

### **Key Issues for Consideration/Reasons for Decision and Options**

- 3.1 Although matters are not as far progressed legislatively as was anticipated when the Committee last met it is necessary to agree the final recommendations to Council as it does not meet again between 16 May 2012 and the effective date of 1 July 2012. To the extent that details of the new regime are still not available it is appropriate and necessary to recommend officer delegation in order to ensure legal compliance by the Council.

### **Consultations**

None

## Implications

### **Financial**

It is not anticipated that the new Standards regime will have a financial impact on the Council that is materially different from the current regime. To the extent that there may be fewer investigations to conduct under a new Code of Conduct this will have a beneficial effect on the Council financially.

Comments checked by Karen Curtin, Head of Finance and Procurement

[karen.curtin@cherwellandsouthnorthants.gov.uk](mailto:karen.curtin@cherwellandsouthnorthants.gov.uk)

### **Legal**

Any relevant implications are included in the report.

Comments checked by Kevin Lane, Head of Law and Governance

[kevin.lane@cherwellandsouthnorthants.gov.uk](mailto:kevin.lane@cherwellandsouthnorthants.gov.uk)

### **Risk Management**

There is a risk of non compliance with the Council's legal obligations if the proposed recommendations are not taken forward and delegated authority is not granted as indicated in the report.

Comments checked by Claire Taylor, Corporate Performance Manager

[claire.taylor@cherwellandsouthnorthants.gov.uk](mailto:claire.taylor@cherwellandsouthnorthants.gov.uk)

## Document Information

<b>Appendix No</b>	<b>Title</b>
1	Proposed code of conduct for Oxfordshire authorities.
2	LGA version of code
3	CLG version of code
4	Proposed terms of reference of member body
<b>Background Papers</b>	
None	
<b>Report Author</b>	Kevin Lane, Head of Law and Governance
<b>Contact Information</b>	<a href="mailto:kevin.lane@cherwellandsouthnorthants.gov.uk">kevin.lane@cherwellandsouthnorthants.gov.uk</a> – 0300 0030 107

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## Oxfordshire Version

1. This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members<sup>1</sup> of the council.
2. This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code.

### Selflessness

3. You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

### Objectivity

4. In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### Accountability

5. You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

### Openness

6. You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

### Honesty and integrity

7. You must not place yourself in situations where your honesty and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

### Leadership

8. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

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<sup>1</sup> A "co-opted member" for the purpose of this code is, as defined in the Localism Act section 27 (4) "a person who is not a member of the council but who  
a) is a member of any committee or sub-committee of the council, or  
b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council;  
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub committee".

## **GENERAL OBLIGATIONS**

9. You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member or co-opted member of the council and act within the law;
10. You must not bully any person.
11. You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.
12. You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, or ought reasonably to be aware, is of a confidential nature except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person, or
  - (iv) the disclosure is:
    - a) reasonable and in the public interest;
    - b) made in good faith and in compliance with the reasonable requirements of the council.
13. You must not improperly use knowledge gained solely as a result of your role as a member for your own personal advantage.
14. When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.
15. When using or authorising the use by others of the resources of the council:
  - (i) you must act in accordance with the council's reasonable requirements;
  - (ii) you must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

## **REGISTERING AND DECLARING INTERESTS**

16. You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

17. You must disclose the interest at any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'<sup>2</sup>.
18. Following any disclosure of an interest not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

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<sup>2</sup> A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

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### LGA Version

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.

Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.

Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.

Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.

Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it

Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.

Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

Always treating people with respect, including the organisations and public I engage with and those I work alongside.

Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

### CLG Version

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

#### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary

interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

**Proposed Terms of Reference**

The promotion and maintenance of high standards of conduct by members and co-opted members of the Council and the Town and Parish Councils in the Cherwell district.

The making of recommendations to Council on the adoption, revision or replacement of a code of conduct for members and co-opted members.

The approval and administration of arrangements under which allegations of breach of the code of conduct for members and co-opted members can be investigated and decisions on such allegations can be made.

The determination of items (if any) that must be entered in the Council's register of members' interests over and above any that are legally required.

The approval and administration of arrangements for the granting of dispensations to members and co-opted members so as to permit their participation in meetings despite the existence of a disclosable pecuniary interest.

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