

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

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

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Legal

Any relevant implications are included in the report.

Comments checked by Kevin Lane, Head of Law and Governance

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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

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Document Information

Appendix No	Title
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
Background Papers	
None	
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