

Council

Recommendations from Standards Committee

16 May 2012

Report of Head of Law and Governance

PURPOSE OF REPORT

To enable Council to consider the recommendations of Standards Committee with regard to the code of conduct to be adopted, and the statutory arrangements to be introduced to investigate and decide on allegations of breach, pursuant to the Localism Act 2011.

This report is public

Recommendations

Council is recommended to:

- (1) Adopt the Oxfordshire Code of Conduct (set out in the annex to the appended draft minutes) with effect from 1 July 2012 or such other date as is legislatively required (“the effective date”) and that it be endorsed for adoption by the Town and Parish Councils in Cherwell District.
- (2) Establish a free standing Standards Committee from the effective date comprising 8 elected members (7 from the Conservative Group and 1 from the Labour Group with Group Leaders to confirm appointed and substitute members to the Head of Law and Governance prior to the effective date), with the power to co-opt town/parish council members as it sees fit, for the purpose of hearing and determining complaints of Councillor misconduct with the terms of reference set out at the annex to the appended draft minutes such Committee to replace the current Standards Committee.
- (3) Agree that two independent persons be appointed by Council at a future date on the recommendation of a panel comprising two members of the new Committee plus the Head of Law and Governance and to delegate authority to fix an initial allowance payment for such persons to the Head of Law and Governance in consultation with the Head of Finance and Procurement.
- (4) Agree to delegate authority 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 new Committee in due course.

- (5) That the terms of appointment of Dr Sadie Reynolds and Derek Bacon as independent members of the current Standards Committee be extended until the effective date.

Details

- 1.1 The Localism Act 2011 abolishes the current standards regime, including its mandatory code of conduct, and replaces it from the effective date with a new obligation on all Councils (including Town and Parish Councils) to adopt a code of conduct which is consistent with the 7 Nolan Principles of Public Conduct (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and contains obligations to register and disclose new forms of interest called Disclosable Pecuniary Interests. The Council is also obliged to implement arrangements whereby allegations of breach of the code of conduct can be investigated and decisions on investigations can be made, albeit that most of the sanctions previously available to Standards for England or the current Standards Committee (such as suspension and disqualification) will be removed.
- 1.2 At its meetings in March and May 2012 the current Standards Committee has been considering the nature of the recommendations that it wishes to make to this meeting of Council which is the last one scheduled before the expected effective date of 1 July 2012. The Committee has been significantly hampered by the fact that awaited Regulations dealing with Disclosable Pecuniary Interests (which it will be a criminal offence to fail to register or disclose) have yet to be published. The draft minutes of the Committee meeting held last week on 10 May 2012 are appended.

Code of Conduct

- 1.3 The monitoring officers for all principal authorities in Oxfordshire have been keen to ensure as far as is possible the adoption of a common form of code to apply to members at all three tiers of local authority in the County (County, District and Town/Parish) both in the interests of general consistency but also to assist those many members who are twin and in some cases triple hatted. The Standards Committee has endorsed this approach and is recommending for adoption the form of Code which is found in the annex to the appended draft minutes. This version has been, or is in the process of being, adopted by all of the principal authorities in the County and, working in liaison with the Oxfordshire Association of Local Councils, all of the constituent Town and Parish Councils in each district will be encouraged to adopt this same version of the Code.

Elected Member Body

- 1.4 When Council last considered this matter in May 2011 during the early stages of the Localism Bill it resolved as follows:-

That the recommendations agreed by the Standards Committee on the approach Cherwell District Council should take in light of the proposals in the Localism Bill relating to the Standards Board regime, namely that the Standards Committee be abolished and responsibilities transferred to the Accounts Audit and Risk Committee, that a voluntary code of conduct be adopted and limited support continue to be given to the parish councils be noted.

However matters have changed significantly since then and what was at that stage a potential voluntary code to apply at principal authority level only has been replaced by a mandatory code (albeit with more discretion as to overall content than currently) to apply at both principal and Town/Parish levels. In the light of this the Standards Committee has reconsidered its position and is recommending that a free standing new Committee should be established. Unlike the current Standards Committee this new Committee, if approved, is required to be politically balanced and it will no longer be required or able to have independent and town/parish council members with a right to vote. It could, however, decide to co-opt non-voting members such as town/parish council representatives. Based on the recommended Committee size of 8 members this would result in the composition being 7 Conservative members and 1 Labour member. With reference to item 14 on this agenda this would result in the total number of Committee seats to be apportioned across the three Political Groups being 100, with 82 Committee seats allocated to the Conservative Group, 12 to the Labour Group and 6 to the Liberal Democrat Group which is an exact match.

Appointment of Independent Persons

- 1.5 The Council must appoint at least one independent person. These will not be members of the Committee and their functions are:-

- He/she must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- He/she may be consulted by the authority in respect of a standards complaint at any other stage; and
- He/she may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.

So as to ensure resilience of cover and also to avoid potential conflicts of interest the Standards Committee is recommending that two independent persons are appointed by Council in due course on the recommendation of a panel comprising two members of the new Committee and the Head of Law and Governance. While the assessment of an appropriate allowance rate for the role could be referred to the Independent Remuneration Panel in due course it is further recommended that delegated authority be granted to fix an initial rate of allowance in the short term.

Register of Interests and Implementation of Other Arrangements

- 1.6 As the necessary legislation to implement the requirements relating to the registration and disclosure of interests is still awaited it is not yet possible to seek approval to the form of the register or indeed the full extent of the necessary arrangements to be introduced for receiving and disposing of allegations of breach of the new code of conduct. Accordingly the Standards Committee is recommending that delegated authority be given to the Head of Law and Governance to establish the register and the accompanying arrangements, including a complaints procedure, with a view to formal endorsement of these in due course by the new Standards Committee.

Extension of Appointments

- 1.7 The terms of office of Dr Sadie Reynolds and Derek Bacon as independent members of the current Standards Committee are due to expire at the end of the 2011/12 year but, given the limited life expectancy of the current Committee, it is not considered appropriate to seek to appoint replacements so members are recommended to extend the terms of office of Dr Reynolds and Mr Bacon until the effective date.

Conclusion

- 1.8 The Standards Committee has met to determine its recommendations to Council and members are requested to consider and approve them as set out above.

Key Issues for Consideration/Reasons for Decision and Options

- 2.1 The following options have been identified. The approach in the recommendations is believed to be the best way forward.

Option One To accept the recommendations.

Option Two To amend the recommendations by adopting a different version of the code of conduct. This is not recommended as it would result in a different code applying in Cherwell District to the rest of Oxfordshire.

Option Three To amend the recommendations and allocate the standards function to the Accounts Audit and Risk Committee. This is not recommended for the reasons set out in the appended draft minutes.

Consultations

Financial There are no immediate financial implications at this stage. It is not envisaged at this stage that any allowance payments for independent persons will exceed the amounts currently paid to external members of the existing Committee.
Comments checked by Karen Curtin Head of Finance and Procurement,
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Legal These are dealt with in the report.
Comments checked by Kevin Lane Head of Law and Governance,
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Risk Management Without effective standards arrangements in place there is a risk to the council's reputation and the preferred recommendation outlined in the report mitigates reputational and legal risks.
Comments checked by Claire Taylor Corporate Performance Manager, Claire
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Document Information

Appendix No	Title
1	Draft minutes of Standards Committee – 10 May 2012
Background Papers	
None	
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