

# COUNCIL

## Localism Act 2011 - Adoption of a Revised Code of Conduct

18th July 2012

### Report of the Monitoring Officer

#### PURPOSE OF REPORT

To enable Council to adopt a new Code of Conduct in accordance with the requirements of the Localism Act 2011

**This report is public**

#### RECOMMENDATIONS

- (1) To adopt the Code of Conduct as set out in Appendix 1.
- (2) To approve an amended addendum to the Council Procedure Rules (to apply to all meetings of Council, Cabinet, Committees and Overview and Scrutiny) as set out in Appendix 2.
- (3) To request the Independent Remuneration Panel to consider the appropriate special responsibility allowance for the chairman of the newly established Standards Committee, and any payments to be made to the Independent Person (and reserves).
- (4) That all members be encouraged to attend training sessions to be provided by the Monitoring Officer on the new Code of Conduct, including arrangements for the registration and disclosure of interests.
- (5) To note the arrangements (Appendix 3) approved by the Standards Committee under Section 28(6) of the Localism Act 2011 for dealing with complaints of breach of the Code of Conduct.
- (6) To consider whether or not to extend the appointment of Mr Stephen Lamley, Mr Tony James and Mr David Jordison as Independent Persons to a date beyond the 1st July 2013.

#### 1.0 Introduction

- 1.1 Members will recall that Council, at its meeting on the 13th June 2012, considered a report on the implementation of the new standards regime under the Localism Act 2011, which indicated that the new arrangements would take effect from the 1st July 2012.
- 1.2 Council on the 13th June disestablished from the 30th June the former Local Government Act 2000 Standards Committee, and established with effect from the 1st July a new Standards Committee, comprising seven elected members, and approved the Committee's terms of reference, and appointed a

chairman. Council also appointed an Independent Person and two reserves. Since that meeting, the government has made amending regulations in relation to the appointment of Independent Persons, and this is referred to later in the report.

- 1.3 At its meeting on the 14th June 2012, the Standards Committee approved arrangements for dealing with complaints of breach of the code of conduct under the new regime, and these are attached at Appendix 3 for noting. It is a requirement of the Localism Act 2011 for such arrangements to be in place, and it is envisaged that as the new regime beds in, the arrangements will be reviewed by the Standards Committee.
- 1.4 With regard to the Council's Code of Conduct itself, Council resolved on the 13th June that the current code remain in force until the date of this meeting to enable the Monitoring Officer and the Standards Committee to consider the contents of the new code in the light of Regulations made on the 6th June 2012.
- 1.5 It is therefore necessary for Council now to consider its new Code of Conduct. The adoption of the Code of Conduct is a matter for Council, and cannot be delegated.

## **2.0 Proposal Details**

### Code of Conduct

- 2.1 Section 27(2) of the Localism Act 2011 requires the Council to adopt a code dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity. The Council must ensure that its code is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The Council is also required to ensure that its code of conduct includes provisions that the Council considers appropriate in respect of the registration and disclosure of pecuniary and other interests.
- 2.2 The former Standards Committee, as the body responsible for advising the Council on its code of conduct, considered the Council's code of conduct under the Localism Act 2011 at a number of meetings, but was unable to finalise its recommendations until the Regulations on disclosable pecuniary interests had been made by the government in early June.
- 2.3 At its meeting on the 14th June 2012, the Committee recommended Council to approve the document at Appendix 1 as its code of conduct.
- 2.4 Members will note that the document has a preamble, setting out the background and the seven statutory principles of conduct. The main body of the Code is then in two parts, the first relating to general obligations and the second relating to interests.

### General Obligations

- 2.5 Members will note that the Part A of the new Code is based on and is very similar to the current Code of Conduct. The Standards Committee was of the view that it was preferable to retain provisions that members are familiar with, and which have become embedded over the past few years. However, there has been a slight rewording of paragraph 5 to clarify its meaning.
- 2.6 Members will note also that paragraph 6 of the proposed Code is new. In its deliberations, the Standards Committee considered template codes which had been produced by the Local Government Association and the Department for Communities and Local Government. Whilst it did not feel able to recommend either of these documents to Council, it felt that it would

wish the new Code to include the new paragraph 6, which is taken from the LGA template.

### Interests

2.7 Part B of the new Code deals with interests, and is itself in two sections, the first relating to disclosable pecuniary interests and the second relating to other interests.

### Disclosable Pecuniary Interests

2.8 The concept of disclosable pecuniary interests (DPIs) was introduced by the Localism Act 2011, with effect from the 1st July 2012. Such interests are defined in regulations, and statutory provisions apply to their registration and disclosure. Section 1 of Part B of the new Code sets out the relevant statutory provisions.

2.9 The statutory provisions, whilst preventing a member with a DPI from participating in a relevant item of business, do not, however, require the member to leave the meeting. Such a requirement can however be imposed by standing orders, and members will recall that on the 13th June 2012, Council approved an addendum to the Council Procedure Rules to this effect.

2.10 The statutory provisions require DPIs to be registered within 28 days of election, but do not require a member to keep the register updated as a matter of course with new or changed DPIs. The statutory position is that a new DPI need only be registered once it has been disclosed at a meeting where a relevant item of business is considered. The Standards Committee felt that it would be preferable to have a local requirement for all changes to be registered as a matter of course, and this has been included as paragraph 7 of Part B.

### Other Interests

2.11 As indicated above, the Localism Act 2011 requires the code of conduct to include such provisions as the Council considers appropriate in respect of the registration and disclosure of other interests. Of those personal interests required to be registered under the current code, a number are now DPIs under the new regime, but others are not. Paragraph 8(1) of Part B of the new Code at Appendix 1 sets out those personal interests currently required to be registered but which do not fall within the definition of DPIs. The Standards Committee's view was that such interests should still be registered, but it felt that the threshold for the registration of gifts and hospitality should be raised from £25 to £50.

2.12 The remainder of Section 2 of Part B deals with the disclosure at meetings of interests that are not DPIs. In effect it replicates the current provisions relating to personal and prejudicial interests, but without using that terminology. If an item of business relates to an interest that is required to be registered under the new paragraph 8(1) or affects a member's well-being or financial position or that of a family member or close associate to a greater extent than the majority of other council tax payers, then the interest must be declared at the relevant meeting. A member may participate in the meeting unless the item of business affects the financial position of the person through whom the interest arises, or relates to a regulatory matter such as a licence or planning permission, and the interest is such that a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the member's judgment of the public interest.

2.13 Where a member is precluded from participating in the circumstances as set out in 2.12 above, it is recommended that the member should, as at present, be required to leave the meeting room, and this could be effected by an

amended addendum to the Council Procedure Rules as set out in Appendix 2. This would mean that the requirement to leave would apply to a member who is precluded from participating either because of a DPI or because of an “other” interest.

### Training

2.14 The Monitoring Officer will be providing training on the new Code of Conduct and in particular the provisions relating to interests. Given that the Localism Act 2011 makes certain contraventions of the rules relating to DPIs a criminal offence, it is considered that all members should be encouraged to attend such training.

### Allowances

2.15 A special responsibility allowance was paid to the former independent chairman of the Standards Committee. As the composition of the Committee, and the sanctions open to it have now changed, it is recommended that the Independent Remuneration Panel be asked to consider the appropriate level of special responsibility allowance for the new chairman. It is also recommended that the Panel be asked to consider whether the payment of any allowance or expenses to the Independent Person (and reserves) is appropriate, although it may be that the workload and level of responsibility cannot be properly assessed until the new regime has “bedded in”.

### Independent Persons

2.16 At the meeting on the 13th June 2012, Council appointed Mr Stephen Lamley as the Independent Person and Mr Tony James and Mr David Jordison as reserves. All three had been independent members of the Standards Committee, and, as such, their appointments as Independent Persons were permitted by the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012, provided that the appointments were made by the 1st July 2013. The Order made no restriction on the length of appointment. On the recommendation of the Monitoring Officer, Council made these appointments for the remainder of the current municipal year. The Monitoring Officer was mindful that, in accordance with the Order, this would give the Council the opportunity in May to consider extending the appointments.

2.17 However, the government has now amended the Order so that a former independent member of a Standards Committee may not be appointed as the Independent Person for a period ending on or after the 1st July 2013. This does not however apply in relation to an appointment made before the 24th July 2012 where the period of the appointment ends on or after the 1st July 2013.

2.18 This gives the Council a window of opportunity at this meeting only, should it wish to extend the appointments of Mr Lamley, Mr James and Mr Jordison as independent persons beyond the 1st July 2013. This would enable the Council to have the benefit of their experience for longer, and, given the lack of response earlier this year when the office was advertised to the public, would ensure that the Council is able to comply with the statutory requirement to appoint an independent person.

2.19 Should Council wish to take this opportunity, the appointments could be extended for whatever length of time Council considers appropriate – perhaps to May 2014 or 2015. The appointments would of course be terminable at will by either party.

## **3.0 Details of Consultation**

3.1 The new Code of Conduct has been considered at length by the former

Standards Committee, whose terms of reference included advising the Council on its code of conduct. The Monitoring Officer has also received advice through the Association of Council Secretaries and Solicitors, and has had discussions with the Monitoring Officers of other councils in Lancashire and Cumbria.

#### **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 The options open to Council are to approve and adopt the Code of Conduct as recommended by the Standards Committee and appended to this report, or to adopt that document with amendments, provided that any such amendments are consistent with the Localism Act 2011. Should Council be minded to make substantial amendments to the recommended Code it may wish to refer these to the Monitoring Officer and Standards Committee for further consideration, and retain the current Code pending such consideration. This would ensure that the Council complies with the statutory requirement to have a Code of Conduct in place.
- 4.2 With regard to recommendation 6, Council is asked to consider extending the appointments of the Independent Persons beyond July 2013. If the Council does not take this option at this meeting, the effect of the relevant amendment Order is that the appointments will have to terminate no later than the 30th June 2013.

#### **5.0 Conclusion**

- 5.1 Council is asked to consider the recommendations as set out above.

#### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None directly arising from this report.

#### **LEGAL IMPLICATIONS**

The requirements of the Localism Act 2011 and Regulations thereunder are set out in the report and reflected in the recommended Code of Conduct.

#### **FINANCIAL IMPLICATIONS**

None directly arising from this report. The chairman of the former Standards Committee received an allowance of £1,210. Any recommendations of the Independent Remuneration Panel will be reported to a future meeting, and information about any relevant financial and budgetary implications will be provided at that stage.

It is envisaged that any training will be provided internally by the Monitoring Officer, but should any external training be required, the cost would be met from the member training budget.

#### **OTHER RESOURCE IMPLICATIONS**

##### **Human Resources:**

None

##### **Information Services:**

None

**Property:**

None

**Open Spaces:**

None

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer as the officer responsible for advising the Standards Committee and Council on code of conduct issues.

**BACKGROUND PAPERS**

None

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