

Agenda Item No: **Report No:**

Report Title: **Local Standards Framework and Code of Conduct for Councillors**

Report To: **Council** **Date:** **9 May 2012**

Cabinet Member: **N/A**

Ward(s) Affected: **All**

Report By: **Corporate Head – Legal and Democratic Services**

Contact Officer(s)- **Catherine Knight – Corporate Head – Legal and Democratic Services**

E-mail(s): **Catherine.knight@lewes.gov.uk**

Tel No(s): **01273 484118**

Purpose of Report:

To present recommendations from the Standards Committee meeting held on 25 April 2012.

Standards Committee Recommendations

Council is Recommended:

- 1** To continue to operate the Council's existing Code of Conduct and existing investigation and hearing procedures for the time being.
- 2** To approve proposals that:
 - (a) on election to office, members be required to sign an undertaking to comply with the Council's Code of Conduct.
 - (b) a member must withdraw from the meeting room during the consideration of any item of business in which they have a prejudicial or disclosable pecuniary interest, unless they are permitted to remain as a result of a dispensation or unless not required to do so by the Code of Conduct.
- 3** Subsequent to the issue of proposed Regulations and adoption of a revised Code of Conduct, to establish a merged Audit and Standards Committee with 7 District Council members to be appointed on a proportionate basis, together with up to 3 co-opted, non-voting Town/Parish members as nominated by the Sussex Association of Local Councils, on the basis that the participation of Town/Parish members is restricted to standards matters.
- 4** To approve the terms of reference for the proposed Audit and Standards Committee and the Monitoring Officer functions under the Localism Act 2011 as set out in Appendix 1.

- 5** That the following functions be delegated to the Committee responsible for Standards matters:
- (a) discharge of the duty of the District Council to promote and maintain high standards of conduct, and to monitor the operations of the Council's Code of Conduct and registers of interest.
 - (b) in relation to allegations that a member/co-opted member has failed to comply with the Code of Conduct, the putting in place of arrangements for investigations and hearings to investigate and make decisions, including the drawing up of any necessary procedures and protocols.
 - (c) the power to deal with applications for dispensations, save that the Monitoring Officer be delegated to deal if and when time does not permit the convening of a Committee meeting.
- 6** To authorise the Corporate Head – Legal and Democratic Services to make arrangements for the appointment of Independent Persons as necessary.
- 7** To authorise the Corporate Head – Legal and Democratic Services to make changes to the Constitution and Council procedures as are required by the Localism Act 2011 and/or Regulations made under the Act.
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Reasons for Recommendations

- 1** To take account of changes to the Standards regime as required by the Localism Act 2011 and to propose mechanisms and codes which will satisfy these requirements.

Information

- 2** The Standards Committee met on 25 April 2012. The full report and appendices can be found at the following

<http://cmispublic.lewes.gov.uk/Public/Binary.ashx?Document=4948> (Report);

<http://cmispublic.lewes.gov.uk/Public/Binary.ashx?Document=4949> (Appendix 1);

<http://cmispublic.lewes.gov.uk/Public/Binary.ashx?Document=4950> Appendix 2A);

<http://cmispublic.lewes.gov.uk/Public/Binary.ashx?Document=4951> (Appendix 2B);
and

<http://cmispublic.lewes.gov.uk/Public/Binary.ashx?Document=4952> (Appendix 2C).

The main issues considered by the Committee are set out below:

- 3** The Localism Act 2011 abolishes much of the Standards regime, but requires councils to have a Code of Conduct and a register of members' interests. It also places a duty on councils to promote and maintain high standards of public

life and have a mechanism in place to enforce the code. Failure to register or declare a pecuniary interest without a good cause will be a criminal offence to be enforced through the courts.

- 4** Any committee established to oversee the Council's Code will no longer be required to have Independent (non-elected) members. Instead the Act requires the Council to appoint at least one Independent Person who must be consulted when an allegation is made that a member has breached the Code of Conduct. The wording of the legislation prevents current Independent Members from being Independent Persons. It is therefore proposed that a 'pool' of Independent Persons be established which all councillors locally can draw on as and when needed and that the Corporate Head – Legal and Democratic Services be authorised to recruit these in conjunction with her peers at Brighton and Hove City Council and the other East Sussex authorities.
- 5** The Standards Committee noted that as from 1 July 2012 there is to be no national 'model' code; instead, from that date, local authorities will be free to adopt their own Code. Adoption of a Code must be taken at Annual Council in May if the Council is to meet the 1 July deadline (It appears that at some stage there will be transitional provisions which will effectively extend the life of the current Code for a further 6 months from 1 July, but these provisions have not yet been published).
- 6** The Committee noted that a draft Code, modelled very much on the lines of the current Code, had been worked up by officers locally with a view to the same Code being adopted by all East Sussex Districts and Boroughs, East Sussex County Council and Brighton and Hove City Council. The advantage of a common Code would be to achieve a level of consistency of expected conduct across the geographical area and be more manageable for twin-hatted members.
- 7** The Committee noted that on 10 April 2012 a suggested 'template Code' was circulated to local authorities by the Local Government Association. This is a principles based, outcomes focussed Code which the Association suggests provides more flexibility for responding to rapid changing times.
- 8** The Committee noted that on 11 April 2012 an 'illustrated text' for a Code was published by Communities and Local Government as an example of a Code which might be suitable for local authorities wanting to adopt a lighter touch Code and perhaps town/parish councils in particular.
- 9** The Committee noted that the above three draft codes are very different in character.
- 10** The Committee was of the view that there was insufficient time between the publication of the LGA and CLG codes and Annual Council for the Council to make a proper assessment of the various draft codes, including asking for feedback from councillors. It noted too that Regulations are yet to be published defining what is meant by a 'Disclosable Pecuniary Interest' and that until those Regulations are published no Code can be finalised.

- 11** For the above reasons, and noting that some other councils are doing likewise, it recommends that the Council should resolve to continue with its current Code of Conduct, together with its current procedures and protocols until such time as the Regulations have been published and there has been time for the Standards Committee to properly assess and recommend a preferred Code.
- 12** The Committee noted that the abolition of Standards for England and the Audit Commission (which in the past required the Council to have a standalone Audit Committee) meant it was possible to review Committee arrangements. It noted that it had only been necessary to convene a meeting of the full Standards Committee on 6 occasions between 2009 and 2012. It noted a trend for Councils to merge their existing Audit and Standards Committees and recommends that this be done post July 2012 when the new Code, Regulations and Standards regime is finally in place. The proposed terms of reference are set out in Appendix 1.

Financial Appraisal

- 13** A significant amount of time will initially need to be spent on re-drafting the Code, procedures, and on advising and training members on the changes. In the longer term, it is hoped that the cost of administering the complaint process may reduce due to the ability to streamline the existing process.

The merger of the Audit and Standards Committee will produce a small annual saving of £1,300 in the Council budget as a consequence of no longer having Independent members on the Committee and a reduction in the number of town/parish councillors from 5 to 3.

Environmental Implications

- 14** I have completed the Environmental Implications Questionnaire and there are no significant effects as a result of these recommendations.

Risk Management Implications

- 15** The following risks will arise if the recommendations are not implemented:

The Council is obliged to adopt a Code of Conduct and arrangements for dealing with the breaches as a matter of law. The Code of Conduct and arrangements for investigating complaints play a significant part in upholding and maintaining good standards of conduct. This helps reduce the risk of reputational damage to the Council and the wider local government and public sector.

Equality Implications

- 16** Any arrangements proposed will need to consider and meet the Council's statutory duties under the Equalities Act 2012 and the Human Rights Act.

Background Papers

- 17** None

Appendix 1

- 18** Terms of Reference for proposed Audit and Standards Committee and Monitoring Officer functions.