

Wiltshire Council

Standards Committee

24 October 2012

Subject: Implementation of New Standards Framework - Update

Purpose of Report

1. To provide members with an update on Wiltshire Council's implementation of the new standards framework.

Background

2. The Localism Act 2011 introduced a new standards framework which came into force on 1 July 2012. Wiltshire Council, as a principal authority, was required under the provisions of the new legislation to make a number of significant changes to its arrangements governing standards of member conduct. This report sets out the Council's progress in implementing the new arrangements.

Main Considerations for the Committee

Code of Conduct

3. The old statutory Code of Conduct for members was abolished by the Localism Act 2011 ("the Act"). Councils were required to adopt new Codes of Conduct with effect from 1 July 2011. These new Codes had to broadly reflect 7 principles of conduct in public life, which are set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Additionally, new Codes had to provide for the registration of members' interests, which were subject to certain new statutory requirements. Provided councils complied with these minimum statutory requirements, they were free to vary their Codes of Conduct to meet local needs and preferences.
4. At a meeting of Wiltshire Council on 26 June 2012 Wiltshire Council adopted a Code of Conduct which complies with the statutory requirements.

Membership of the Standards Committee

5. The Localism Act 2011 abolished the requirement for principal authorities to have a Standards Committee. However, principal authorities retained a responsibility to put in place arrangements under which allegations that

a member has breached their Code of Conduct can be investigated and determined. As a principal authority, Wiltshire Council's duty in this regard extends to allegations about the conduct of city, town and parish councils in its area, as well as to its own members. The Act also requires authorities to promote and maintain high standards of conduct by members and co-opted members of the authority.

6. Wiltshire Council has decided to discharge these responsibilities by adopting a Standards Committee. This is a committee of the Council and is subject to the rules of political balance. The Council has also determined that in order to provide a degree of continuity, it would appoint 4 of the co-opted members of the old Standards Committee to serve as co-opted members of the new Standards Committee for a period of one year.
7. The process for appointing co-opted members has now been completed, subject to confirmation by the Standards Committee on 24 October 2012.

Independent Persons

8. The Act requires principal authorities to appoint at least one independent person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and whose views may be sought by members who are the subject of an allegation and by the authority in circumstances other than when it is making a decision on an allegation it has decided to investigate.
9. Interviews for Independent Persons were conducted on 9 July 2012 and the appointment of 3 Independent Persons was approved by Council at their meeting on 10 July 2012. The Council has, therefore, complied with the statutory requirements for the appointment of Independent Persons.

New arrangements for the assessment of complaints

10. The council agreed a new procedure for dealing with member misconduct complaints on 26 June 2012. Since 10 July the Monitoring Officer has sought the views of an Independent Person in relation to 14 allegations that members have breached their local Code of Conduct. Members who were the subject of an allegation have sought the views of an Independent Member 6 times.

An Independent Member has given their views at one hearing to determine an allegation following investigation by the Monitoring Officer.

11. The new procedure for assessing complaints requires the Monitoring Officer to meet an Independent Person and consider the allegation. The old statutory procedure did not permit the subject member to receive a copy of the complaint nor to submit any response before the complaint

was assessed. Under the new local procedure adopted by Wiltshire Council a copy of the complaint is sent to the subject member who is then able to consult an Independent Person and to submit a response before the complaint is assessed. The Monitoring Officer considers this arrangement to be more satisfactory than the old statutory procedure. It provides a more balanced view of a complaint, allowing for a far more informed decision at an early stage. Early indications are that this will result in fewer complaints going forward for investigation than would have been the case under the old standards regime. Of the 14 complaints that have been assessed so far, only 1 has been put forward for investigation.

12. The Monitoring Officer and the Independent Persons who have given their views at the assessment stage have noted that complainants are not generally framing their complaints in relation to local Codes of Conduct. Since each council is free to adopt and vary their own Code and complainants are not providing a copy of the particular Code they believe the subject member has breached, there is a risk that the wrong criteria are being applied. So far this has not been a problem, but it could become an issue in the future.
13. It is too soon to assess the effectiveness of the new investigation procedures because the case that has been referred for investigation has not yet gone through the process.
14. Wiltshire Council's arrangements for the assessment and consideration of complaints are in place and operational. They meet the requirements of the Localism Act 2011.

Registration of Members' Interests

15. The Act requires the Monitoring Officer to establish and maintain a register of interests of members and co-opted members of the authority and of the city, town and parish councils within Wiltshire Council's area. He must secure that the register is available for inspection at a place in the authority's area at all reasonable hours, and that it is published on Wiltshire Council's website.
16. The interests that members are required to register are defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Authorities may include in their Code of Conduct such other pecuniary and non-pecuniary interest as they consider appropriate.
17. These regulations were only made available to relevant authorities around 14 working days before they came into force, so the scope for consultation with city, town and parish councils on the arrangements for ensuring compliance with the new statutory requirements was very limited.
18. In view of the large number of city, town and parish councils in Wiltshire Council's area, officers concluded that the only way to collate and

publish the information required by the legislation within the available resources would be to collect the data on-line. Officers in the web-team had to create an application to carry out this collection activity. Opportunities for user acceptance testing and consultation after development were minimal because of the extremely tight deadlines resulting from the delayed publication of the regulations. However, the development work was completed 2 working days before the regulations came into force and each parish council was issued with a unique password and log-on ID – these were sent to parish clerks for transmission to their members. The Monitoring Officer also sent a letter to all the parish clerks outlining the requirements of the new legislation and explained the process for registering interests on line.

19. The response was variable. Around 50% of the city, town and parish council members managed to register their interests with no difficulty. About 30% had some difficulty initially because their passwords did not work – this was remedied relatively easily with a phone call, but did cause some understandable frustration for the users. A minority of councillors or councils complained to the Monitoring Officer about the statutory requirement for the information to be captured and published on-line. There was particular discomfort voiced about the statutory requirement for members' partners' interests to be registered. Initially the web form required the name of the partner to be declared – however, the inclusion of partners' names on the register is not a statutory requirement and has now been removed.
20. Several councils said that they wished their members to be able to register a greater range of interests than those required in the new regulations. This is currently provided for by the inclusion of a free-text box on the web form where additional interests can be added.
21. At its meeting on 26 June 2012 the Council resolved to ask the Standards Committee to develop proposals, in consultation with parish, town and city councils, on any additional pecuniary and non-pecuniary interests that should be declared and registered under the Code of Conduct, and on the question of withdrawal from meetings, and to bring these back to Council for consideration at the earliest opportunity.
22. Examples of the type of interests that could be subject to registration as an additional requirement under the Code of Conduct might include:
 - any body of which the councillor is a member or in a position of general control or management and to which the councillor is appointed or nominated by their authority;
 - any body exercising functions of a public nature of which the councillor is a member or in a position of general control or management;
 - any body directed to charitable purposes of which the councillor is a member or in a position of general control or management;
 - any body one of whose principal purposes includes the influence of public opinion or policy (including any political party

or trade union) of which the councillor is a member or in a position of general control or management;

23. The Council may take the view that it would be appropriate to require councillors to register these interests in order to promote transparency, but that having declared them they may then speak and vote on matters relating to those interests, unless there are other special circumstances where this would not be appropriate.
24. It would be helpful, for the purposes of the assessment and determination of allegations of breach, if the majority of the councils in Wiltshire Council's area were to have similar requirements in terms of any additional interests they require their members to register, although that would, of course, not be compulsory. It is therefore proposed to consult parish, town and city councils from November / December of this year with a view to the results of the consultation and any proposals for amendments to Wiltshire Council's Code of Conduct being brought to the Standards Committee and then to full Council in the spring of 2013 in time for implementation ahead of the elections in May 2013.
25. Wiltshire Council's arrangements for the registration and publication of members' interests are in place and comply with the statutory requirements of the Localism Act and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Conclusion

26. The Council has put in place a framework and procedures that meet the requirements of the Localism Act 2011 and associated regulations. Monitoring of the effectiveness of these arrangements will allow it to make any adjustments to improve their operational efficiency.

Recommendation

27. Members are asked to note the report, to consider what additional interests may be required to be registered under the Code of Conduct, and to determine the arrangements for consultation with parish, town and city councils on this aspect.

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Background Papers

The following unpublished documents have been relied on in the preparation of this report: None