

WILTSHIRE COUNCIL

LOCALISM ACT 2011 - NEW STANDARDS FRAMEWORK PROPOSALS

CONSULTATION

Introduction

1. This document:
 - a. sets out the steps Wiltshire Council has taken in preparing to implement the requirements of the Localism Act 2011 on standards in local government.
 - b. invites parish, town and city councils in Wiltshire to comment on Wiltshire Council's proposed draft code of conduct and arrangements for dealing with complaints.
2. **Part A contains the Council's proposals on which responses from parish, town and city councils are invited.**
3. **Part B contains information on other matters relating to the development of the new standards framework in Wiltshire, which will be of interest to Parish Councils.**

Background

4. The Localism Act 2011 ('the Act') introduces fundamental changes to the regulatory framework for standards of conduct of elected and co-opted members of relevant authorities, including principal councils and parish, town and city councils ('Parish Councils').
5. The key changes were summarised in a briefing note which was circulated to Wiltshire Councillors and clerks to Parish Councils on 31 December 2011. A revised copy of the briefing note is attached at **Appendix A**.
6. The new standards framework is due to be implemented on 1 July 2012, but this is yet to be confirmed by regulations.
7. Regulations dealing with the registration and disclosure of pecuniary interests and the transitional arrangements for existing complaints are awaited.

8. Proposals for the new standards framework were developed by the Council's Standards Committee in consultation with its Constitution Focus Group, Group Leaders, and the Member Support in the Locality Scrutiny Task Group. These were considered by the Council on 15 May 2012. The relevant parts of the Council's decision are covered below.

PART A - FOR COMMENT

Code of Conduct

9. The Act imposes a general duty on relevant authorities to promote and maintain high standards of conduct. In discharging this duty councils must, in particular, adopt a code of conduct dealing with the conduct that is expected of members and co-opted members of the council when they are acting in that capacity.
10. Parish Councils are required to adopt a code of conduct. They may, however, satisfy this duty by adopting Wiltshire Council's code of conduct. This is strongly encouraged to ensure consistency in promoting high standards of conduct across Wiltshire and in dealing with complaints under the code.
11. The new code of conduct must, when viewed as a whole, be consistent with the following principles:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
12. Regulations defining what pecuniary interests must be registered and disclosed are due to be issued. A council's code may include such other pecuniary and non-pecuniary interests as the council considers appropriate for registration and disclosure. Until these regulations are available it is not possible to complete this part of the code of conduct, or determine what interests need to be included in the register of interests for Wiltshire Councillors and Wiltshire Parish Councillors.
13. Wiltshire Council has approved for consultation a shortened version of the code than that put forward by the Standards Committee. The draft code of conduct is attached at **Appendix B**. This is based on the draft illustrative text published by the Department for Communities and Local Government (DCLG).
14. The draft code for Wiltshire Council refers to the Council's Behaviours Framework and the Role and Responsibilities of Wiltshire Councillors. Whilst it is not expected that Parish Councils will adopt this part, a copy of these documents is included for

information.

15. **Parish Councils are invited to comment on the content of the draft code of conduct. These comments will be taken into account when Wiltshire Council meets to make its final decision on the new framework on 26 June 2012.**

Arrangements for Dealing with Code of Conduct Complaints

16. Wiltshire Council must put in place arrangements for investigating and determining complaints under the code of conduct and deciding the actions that may be taken if there is found to be a breach of the code.
17. Complaints against members of Parish Councils are to be dealt with under the arrangements adopted by Wiltshire Council. However, any consequential action in the event of a breach of the code will rest with the relevant parish council.
18. Wiltshire Council's proposed procedure for dealing with complaints is attached at **Appendix C**. A flow-chart summary is included within this document at Annex 2.
19. The procedure aims to be fair, efficient and proportionate. Key features include:
 - provision for informal resolution by the Monitoring Officer before a formal complaint is lodged;
 - strict time limit of 20 working days for bringing a complaint;
 - complaint details sent to the member upon receipt with the opportunity to provide a written response for initial assessment;
 - initial assessment by the Monitoring Officer, after consultation with the independent person;
 - right of review for both parties at the initial assessment stage and for the complainant following investigation;
 - strong emphasis on exploring alternative resolution;
 - independent person available for member to consult throughout process;
 - confidentiality maintained until determined otherwise;
 - shorter process than under the current statutory regime. We are aiming for cases to be completed within 3 ½ months - 20 working days to initial assessment - 30 working days for investigation and 20 working days to hearing). This excludes requests for extension by the member, time spent on reviews and exploring alternative resolution.

- no right of appeal against final determination by the Hearing Sub-Committee;
 - provision for the procedure to be reviewed in the light of experience.
20. Annex 1 of the proposed procedure includes a range of possible sanctions that the council may decide to adopt. These are more limited than the sanctions available under the current statutory regime.
21. Sanctions for parish councillors may only be in the form of recommendations to the relevant parish council.
- 22. Parish Councils are invited to comment on the proposed arrangements for dealing with code of conduct complaints, as set out in Appendix C. These comments will be taken into account when Wiltshire Council meets to make its final decision on the new framework on 26 June 2012.**

Comments on these proposals should be submitted to Ian Gibbons, Monitoring Officer, at Wiltshire Council, County Hall, Bythesea Road, Trowbridge BA14 8JN or by e-mail at ian.gibbons@wiltshire.gov.uk to arrive no later than Friday 15 June 2012 to ensure that these may be included in the report which will be considered by Council on 26 June 2012.

PART B - FOR INFORMATION

Appointment of Independent Persons

23. Wiltshire Council, as the principal authority, must appoint at least one independent person whose views must be sought and taken into account before it makes a decision on an allegation it has decided to investigate. The views of the independent person may also be sought on other allegations, and by a member who is the subject of an allegation.
24. Wiltshire Council has decided to appoint 3 independent persons. For each complaint one independent person will be allocated to advise and assist the Monitoring Officer and the Hearing Sub-Committee and the other will be available for consultation by the member. This will avoid any conflict of interest between these roles. Having 3 independent persons will ensure that there is sufficient cover available to ensure that the timescales set in the complaints process can be met.
25. Wiltshire Council has agreed a job description and person specification for the independent person, based on the statutory requirements, as set out at **Appendix D**.
26. We are taking steps to appoint to these positions by 1 July 2012.

Standards Committee

27. Wiltshire Council has agreed to establish a new standards committee to discharge its functions under the new standards regime. Its terms of reference are attached at **Appendix E**. The new standards committee will be responsible for developing the new standards framework.
28. **It will be for Parish Councils to decide whether they wish to have a standards committee.**

Register of Interests

29. As Monitoring Officer I am required under the new legislation to establish and maintain a register of members' interests for members of Wiltshire Council and Wiltshire Parish Councils. These must all be available for inspection at Wiltshire Council's offices, on Wiltshire Council's web-site, and on the relevant Parish Council's web-site, if it has one.
30. Work is in hand to prepare for the implementation of these arrangements, but it is not possible to finalise the form of the register until the regulations on interests have been published.
31. **We will be contacting Clerks to Parish Councils about the arrangements concerning the registers of interests when we are in a position to finalise these.**

Dispensations

32. Relevant authorities may, on receipt of a written request, grant dispensations for up to 4 years for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest. The grounds on which a dispensation may be granted are wider than at present, and are set out at paragraph 32 of the briefing note at **Appendix A**.
33. Wiltshire Council will delegate this function to a sub-committee of the standards committee.
34. **Parish Councils will be responsible for granting dispensations for their own councillors and will need to make their own arrangements.**

Transitional Arrangements

35. The arrangements for moving from the current standards regime to the new one will be governed by transitional regulations which are yet to be published. The existing Standards Committee has been retained to deal with any outstanding complaints under the current regime.

Support to Parish Councils in Implementing the New Arrangements

36. We will keep Parish Councils informed of progress on these matters via their clerks, , through updates in the Parish Newsletter and at meetings of the Area Boards.
37. We are arranging briefing sessions for Wiltshire Councillors and Parish Councillors on the new standards framework to take place before Wiltshire Council's meeting on 26 June 2012.
38. If you have any queries about the issues covered in this document please contact Ian Gibbons, Monitoring Officer, Wiltshire Council on 01225 713052 or by e-mail at ian.gibbons@wiltshire.gov.uk

Ian Gibbons

Director Law and Governance and Monitoring Officer

Wiltshire Council

22 May 2012