

Localism Act 2011 - New Standards Framework

Purpose of Report

1. This report:
 - a. informs council of the outcome of the consultation with parish, town and city councils on this council's proposals under the new standards framework introduced by the Localism Act 2011.
 - b. asks council to determine its arrangements for the new standards framework in the light of the outcome of the consultation for implementation on 1 July 2012.

Background

2. At its meeting on 15 May 2012 the council considered proposals on the new standards framework under the Localism Act 2011 and resolved as follows:
 - (1) To approve the draft code of conduct (DCLG model text) as amended for consultation with Wiltshire Councillors and Wiltshire Parish Councillors before final approval is sought at the next meeting on 26 June 2012.
 - (2) To approve the arrangements for dealing with code of conduct complaints, as set out in the report, for consultation with Wiltshire Councillors and Wiltshire Parish, Town and City Councillors before final approval is sought at the next meeting on 26 June 2012.
 - (3) To approve the job description and specification for the independent person as set out in the report.
 - (4) To authorise the Monitoring Officer, in consultation with the chairman of the new standards committee, to take the necessary steps to secure the appointment of 3 independent persons in accordance with the arrangements set out at paragraph 30 the report.
 - (5) To seek the advice of the Independent Remuneration Panel on an appropriate rate of remuneration for the independent person and to bring this back to council for decision on 26 June 2012.

- (6) To agree to establish a standards committee with terms of reference as set out in the report, save that the sub-committees will be subject to the requirements of political balance.
 - (7) To authorise the Monitoring Officer, in consultation with the chairman of the new standards committee, to agree the arrangements for selection of co-opted members in accordance with paragraph 34 of the report, for appointment by council at its meeting on 26 June 2012.
 - (8) With effect from its appointment by council on 15 May 2012 the new standards committee will be entirely responsible for all standards framework development matters and decisions will only be taken on matters by elected members of the council.
 - (9) To retain the current standards committee, including the current membership, for such period as is necessary to discharge its obligations relating to ongoing cases under the current regime until 1 July 2012 and for such further period as may be determined by statutory regulation.
 - (10) To agree to consult parish councils on the council's proposals for the implementation of the new standards framework in Wiltshire before a final decision is made by council on 26 June 2012.
3. Parish, town and city councils ('parish councils') have been consulted on the council's proposals. A copy of the consultation paper which was sent to all parish clerks is attached at Appendix 1. Details of the consultation were also included in Parish News and briefing sessions were held in Trowbridge, Devizes, Chippenham and Salisbury between 7 and 14 June 2012. Attendance at the briefing sessions ranged from about 12 to 30 people.
 4. A summary of the responses received from parish councils and comments on these is attached at Appendix 2. Replies are being sent on the various points raised.
 5. The Independent Remuneration Panel has met to consider the level of remuneration for the independent person. Their report and recommendation is attached at Appendix 3.
 6. Regulations dealing with the registration and disclosure of pecuniary interests, commencement and transitional arrangements were made on 8 June 2012. These are summarised below at paragraphs 23-26 and 30. In particular they confirm that the new requirements will come into effect on 1 July 2012.

Code of Conduct

7. The draft code of conduct approved for consultation by the council is included at Appendix B of the consultation document - Appendix 1. This follows the DCLG draft with amendments for Wiltshire Councillors to include reference to Wiltshire Council's

Behaviours Framework and the Role and Responsibilities of Wiltshire Councillors.

8. The regulations defining what pecuniary interests must be registered and disclosed have now been issued. The council's code may include such other pecuniary and non-pecuniary interests as the council considers appropriate for registration and disclosure. The draft code, at paragraph 6, requires members to declare any private interests, both pecuniary and non-pecuniary, that relate to their public duties, but these are not defined, nor is there any requirement to include any additional categories of interest in the register of interests. The council may also include in its constitution a requirement for members to withdraw from a meeting where they are unable to participate or vote because of a disclosable pecuniary interest. There has been insufficient time to consider these aspects properly and to make recommendations to council at this meeting, in view of the late publication of the regulations. It is, therefore, proposed that the council refers these matters to the standards committee to consider and work up proposals, in consultation with parish councils, and bring these back to council for approval at the earliest opportunity.
9. Parish councils are being strongly encouraged to adopt Wiltshire Council's code, save for those parts shown in square brackets which relate solely to Wiltshire Council. This will ensure consistency in promoting high standards of conduct across Wiltshire and in dealing with complaints under the code.
10. Since this matter came before council on 15 May 2012 the National Association of Local Councils (NALC) have produced a draft code of conduct for parish councils. A copy is attached at Appendix 4 by way of comparison. The NALC template code will need to be revised to reflect the regulations on disposable pecuniary interests.
11. From the responses received from parish councils, as summarised in Appendix 2, and from feedback at the briefing sessions it would appear that there is significant support for the Wiltshire Council draft code, particularly on the grounds of its simplicity. However, it is difficult to assess the overall position in Wiltshire in view of the relatively small proportion of responses received and the fact that many councils are yet to make up their minds on this issue.
12. Given the need to adopt a code of conduct with effect from 1 July 2012 it is recommended that Council adopts the draft code of conduct as it stands on the understanding that this may be reviewed subsequently in the light of experience.
13. **Council is, therefore recommended to:**
 - (1) **note the comments received from parish councils in response to the consultation.**
 - (2) **approve the draft code of conduct as set out in Appendix B of Appendix 1, for adoption with effect from 1 July 2012.**
 - (3) **ask the standards committee to develop proposals, in consultation with parish 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.

Arrangements for Dealing with Code of Conduct Complaints

14. Responses from parish councils on the draft complaints process at Appendix C of Appendix 1 and feedback given at the briefing sessions indicate that the proposed arrangements are generally supported.
15. **Council is, therefore, asked to approve the arrangements for dealing with code of conduct complaints, as set out in Appendix C of Appendix 1, for adoption with effect from 1 July 2012.**

Appointment of Independent Persons

16. The Independent Remuneration Panel has met to consider the level of remuneration for the three independent persons who are to be appointed under the council's arrangements. Their report is attached at Appendix 3.
17. The Panel concluded that, as the role is so new and it is difficult to gain concrete evidence of the time commitment and level of responsibility involved, the current allowance of £2,240 paid to independent members of the Standards Committee would be a sensible starting point. This allowance can then be reviewed in the light of experience when undertaking the full review of the members' allowances scheme in the autumn.
18. The position of independent person has been advertised and appointments to the three positions are due to be made following interviews on 9 July 2012.
19. **Council is recommended to:**
 - (1) **Set the level of allowance for the statutory role of the Independent Person appointed under Section 28(6) of the Localism Act 2011 at £2,240 per annum with effect from 1 July 2012.**
 - (2) **To note that the Independent Remuneration Panel will review this allowance in the light of experience as part of its full review of members' allowances in the autumn.**

Standards Committee - Appointment of Co-opted Members

20. The terms of reference for the new standards committee, agreed at the last meeting, provide for a politically balanced committee of 13 elected members (excluding the Leader or any Cabinet Member) and up to 8 co-opted non-voting members, 50% of whom are to be parish council representatives.
21. In order to ensure continuity of knowledge and experience, and in view of the limited time available, it is proposed that initial appointments of co-opted members will be

made from the existing co-opted membership of the former standards committee for a term of approximately 12 months until such time as new appointments are made following parish council elections in May 2013.

22. A number of the existing co-opted members who have indicated their willingness to serve as a non-voting co-opted member on the new standards committee have also expressed interest in applying for one of the independent person positions. It is, therefore, proposed to hold interviews for co-opted members, if necessary, after the interviews for the independent persons on 9 July. The appointment of co-opted members may then be confirmed by the council at its meeting on 10 July 2012.

23. **Council is asked:**

(1) to agree that initial appointments of co-opted members are made from the existing co-opted membership of the former standards committee for a term of approximately 12 months until such time as new appointments are made following parish council elections in May 2013.

(2) to note that the appointment of non-voting co-opted members to the new standards committee will now be made on 10 July 2012.

Register of Interests

24. 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 be available for inspection at Wiltshire Council's offices, on its web-site, and, for parish councillors, on their parish council's web-site if it has one.

25. The regulations on disclosable pecuniary interests were made on 8 June 2012. A copy is attached at Appendix 5. These specify the categories of pecuniary interest that are 'disclosable pecuniary interests' and must be entered in the register. They cover the following:

- Employment, office, trade, profession or vocation carried on for profit or gain
- Sponsorship
- Contracts
- Land
- Licences
- Corporate tenancies
- Securities

25. We have prepared a form of register of interests based on the requirements of the Act and regulations and will be issuing instructions to Wiltshire Councillors and parish clerks very shortly about the arrangements for registering these on our web site.

26. It should be noted that the Act requires registration of the above interests both in respect of the member or co-opted member **and** of their spouse, civil partner or person with whom they are living as a spouse or civil partner, where they are aware of the other person's interest.

Dispensations

27. 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. Under the new standards committee's terms of reference dispensation requests from Wiltshire Councillors will be determined by a Dispensation Sub-Committee.
28. Parish councils will be responsible for making their own arrangements for granting dispensations for their councillors.
29. Under the new legislation members who have a disclosable pecuniary interest in any business of the council are prohibited from participating in any discussion of the matter at the meeting. This removes the right currently afforded to members who have a prejudicial interest under the existing code of conduct to make representations to the same extent as a member of the public before withdrawing from the meeting. It may be possible to use the council's new powers to grant a dispensation to give members with a disclosable pecuniary interest the right to make representations to the meeting to the same extent as a member of the public before ceasing to participate in any discussion of the matter. This should be explored by the standards committee in developing a policy on dispensations.

Commencement and Transitional Arrangements

30. Regulations bringing the new standards regime into effect and dealing with transitional arrangements were issued on 8 June 2012. These may be summarised as follows:
- Provisions enabling councils to adopt a code of conduct, complaints process, make relevant standing orders and grant dispensations from 1 July, and monitoring officers to prepare a register of interests are now in force;
 - The power to suspend or partially suspend has now been repealed;
 - The new standards provisions and repeal of the remaining aspects of the existing regime will take effect from 1 July 2012, subject to transitional arrangements;
 - members and co-opted members who have served on the standards committee during the 5 years ending on 30 June 2012 may now be appointed as an independent person if they are not a member or co-opted member of the council's standards committee on 1 July 2012. This applies only to appointments before 1 July 2013.

- The right to appeal against a decision of a standards committee remains;
- Proceedings before the First-tier Tribunal and any legal proceedings relating to these may continue where commenced before 1 July 2012 or where they relate to a decision of a standards committee before that date.
- Existing cases which have not been determined by the current standards committee by 1 July 2012 fall to be dealt with under the new arrangements.

Environmental and Climate Considerations

31. None arising from this report.

Equalities Impact

32. The proposals contained in this report are consistent with the council's obligations under the Equality Act 2010.

Risk Assessment

33. Failure to implement the new requirements for standards in local government will breach the council's legal duty to promote and maintain high standards of conduct and is likely to damage the reputation of the council and undermine public confidence in local democracy.

Financial Implications

34. If the recommendations of the Independent Remuneration Panel are accepted the cost of appointing the three independent persons will amount to £ 6,720, subject to any review. The allowances for the chairman of the new standards committee and co-opted members are being considered by the Independent Remuneration Panel and their recommendations will be brought to council for decision in due course.

35. Implementation of the new arrangements will be met within existing resources.

Legal Implications

36. As set out in this report. The Council is required to implement the new standards arrangements from 1 July 2012.

Recommendations:

37. Council is recommended to:

- (1) note the comments received from parish councils in response to the consultation.**
- (2) approve the draft code of conduct as set out in Appendix B of Appendix 1, for adoption with effect from 1 July 2012.**
- (3) ask the standards committee to develop proposals, in consultation with parish 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.**
- (4) approve the arrangements for dealing with code of conduct complaints, as set out in Appendix C of Appendix 1, for adoption with effect from 1 July 2012.**
- (5) set the level of allowance for the statutory role of the Independent Person appointed under Section 28(6) of the Localism Act 2011 at £2,240 per annum with effect from 1 July 2012.**
- (6) note that the Independent Remuneration Panel will review this allowance in the light of experience as part of its full review of members' allowances in the autumn.**
- (7) agree that initial appointments of co-opted members are made from the existing co-opted membership of the former standards committee for a term of approximately 12 months until such time as new appointments are made following parish council elections in May 2013.**
- (8) note that the appointment of non-voting co-opted members to the new standards committee will now be made on 10 July 2012.**

**IAN GIBBONS
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Appendices:

- Appendix 1 Consultation document to parish councils
- Appendix A – Briefing Note
- Appendix B – Draft Code of Conduct
- Appendix C – Arrangements for dealing with complaints (and Annex 1)
- Annex 2 – Flowchart
- Appendix D – Job Description/person specification – Ind Person
- Appendix E – Terms of Reference of Standards Committee
- Appendix 2 Summary of responses from parish councils
- Appendix 3 Report of Independent Remuneration Panel
- Appendix 4 NALC draft code of conduct
- Appendix 5 The Relevant Authorities (Disclosable Pecuniary Interests)
 Regulations 2012