

Wiltshire Council

Standards Committee

16 September 2015

Review of Part 13 of the Constitution: Code of Conduct for Members

Purpose of Report

1. To ask the Standards Committee to consider proposed changes to the Council's Code of Conduct for Members.

Background

2. Under the Localism Act 2011 councils were required to adopt a new Code of Conduct with effect from 1 July 2012 as part of their duty under section 27 of that Act to promote and maintain high standards of conduct. The code must broadly reflect the seven principles of conduct in public life set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
3. Wiltshire Council adopted a model Code of Conduct issued by the Department for Local Government and Communities (DCLG) with some variations.
4. The purpose of the Code of Conduct is to promote accountability, transparency and public confidence in local government. The code of conduct should be framed in a way that supports these objectives.
5. As principal authority Wiltshire Council deals with all Code of Conduct complaints for unitary, parish, town and city councillors in accordance with its agreed complaints procedure. A large proportion of Wiltshire's parish, town and city councils have adopted the same code of conduct as Wiltshire Council.
6. At its meeting on 21 January 2015 the Standards Committee received a report reviewing the effectiveness of the Council's Code of Conduct and highlighting a number of areas where a lack of specificity in the provisions of the Code is making it difficult to apply and enforce. Concerns were expressed that this has resulted in very few cases being referred for investigation and a potential risk of undermining public confidence in local democracy. The report also considered whether specific provision should be made in the Code for members to register gifts and hospitality received by them in their Register of Interests.
7. The Committee resolved:

That the Monitoring Officer:

1). Draft proposals to strengthen the Code of Conduct;

- 2). *Draft proposals for enabling the recording of gifts and hospitality at an appropriate level;*
 - 3). *Continue efforts to work with other authorities to lobby central Government to increase the level of sanctions available to councils, as soon as appropriate.*
8. A copy of the report and minutes of the meeting of 21 January 2015 is attached at **Appendix 1** by way of background.

Main Considerations

9. A copy of the proposed revisions to Wiltshire Council's Code is shown tracked as attached at **Appendix 2**. The proposed changes reflect the Committee's previous consideration and have regard to the content of codes of Conduct adopted by other authorities. They cover the following:
- a. Conduct
 - treating others with respect;
 - equality;
 - bullying and intimidation;
 - compromising the impartiality of officers;
 - confidentiality;
 - bringing a councillor's office or authority into disrepute;
 - b. Interests
 - registration of interests other than the statutory disclosable pecuniary interests;
 - registration of gifts and hospitality.
10. The Constitution Focus Group met to consider these potential changes on 2 September 2015. A copy of the minutes of the meeting summarising their views are included at **Appendix 3**.

Conduct

11. The proposed changes relating to conduct are relatively straightforward, setting out more explicitly what standards of conduct are expected of members when acting in their capacity as members or co-opted members. They are largely derived from the conduct provisions in the former statutory Code of Conduct and carry with them a substantial body of guidance to assist in their application. It should make the framing, assessment and determination of complaints clearer and more efficient in the interests of all concerned, not least the public interest in seeing that conduct matters are dealt with appropriately.

Interests

12. There has been an increasing number of complaints and challenges over the past year relating to members' declaration of interests where issues of apparent bias have been raised. These typically concern membership of other public bodies, community groups and political parties relating to the business under consideration.
13. Therefore, in order to address this situation and provide greater clarity and consistency in the interests of transparency it is proposed that the Code is amended to require members to include any of the following in their register of interests:
 - any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
 - any body exercising functions of a public nature of which you are a member or in a position of general control or management;
 - any body directed to charitable purposes of which you are 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 you are a member or in a position of general control or management.

Gifts and Hospitality

14. Under the proposed change in paragraph 18 of the draft revised Code members will be required to register any gift, benefit or hospitality with a value in excess of £ 50 which they have accepted as a member in their published Register of Interests.

Parish, Town and City Councils

15. It is proposed to inform Wiltshire Parish, Town and City Councils of any changes the Standards Committee is minded to recommend to full Council and invite them to review their own code of conduct in the light of these changes should they wish to do so.

Sanctions

16. The inadequacy of the sanctions available to local authorities in dealing with breaches of the code of conduct continues to be a significant source of concern for many authorities. It seems, however, that very little is being done nationally to address these concerns despite representations being made to Ministers on this issue. As far as we know the Local Government Association (LGA) is not taking up this issue with the Government.

17. The Committee on Standards in Public Life (CSPL) are keeping this on their radar but there is no indication as yet that any substantive action is to be taken. Members of the Committee may be interested to read the relevant part of the CSPL's Annual Report and Business Plan 2015-16 (see in particular paragraphs 63-71 on pages 22 -24) which may be found on the following link:

<https://www.gov.uk/government/publications/cspl-annual-report-2014-2015-and-business-plan-2015-2016>

Environmental Considerations

18. None.

Safeguarding Implications

19. No specific safeguarding issues arise from this report.

Public Health Implications

20. None

Equalities Implications

21. The proposed changes to the Code of Conduct provide for the inclusion of a specific obligation in relation to equalities legislation.

Procurement Implications

22. None

Risk Implications

23. There is a risk that the lack of a clear and effective code of conduct will undermine public confidence in local democracy and accountability.

Financial Considerations

24. None arising directly from this report.

Legal Implications

25. As outlined in the report. The council is obliged to discharge its statutory duty to promote and maintain high standards of conduct under section 27 Localism Act 2011, in particular by adopting a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

Recommendations

26. The Committee is asked to consider the proposed changes to the Code of Conduct as set out in Appendix 2 and recommend full Council to adopt any changes that are agreed.
27. Members are asked to note that Wiltshire Parish, Town and City Councils will be advised of any changes the Standards Committee is minded to recommend to full Council and invite them to review their own code of conduct in the light of these changes should they wish to do so.

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Unpublished reports relied upon in the preparation of this report: None.

Appendices:

Appendix 1 - Report on Effectiveness of the Code of Conduct and Minutes of Meeting
21 January 2015

Appendix 2 - Draft Revised Code of Conduct

Appendix 3 - Draft Minutes of the Constitution Focus Group 2 September 2015