

RECOMMENDED ITEM FROM COUNCIL HELD ON 25TH JULY, 2012

260. THE COUNCIL'S ETHICAL FRAMEWORK UNDER THE LOCALISM ACT 2011

The Solicitor to the Council and the Monitoring Officer submitted the report on the Council's Ethical Framework following the adoption of the Localism Act 2011.

The Localism Act 2011 had made substantial changes to the ethical framework which governs members' behaviour when acting as councillors. In June 2012 Council granted delegated authority to the Solicitor to the Council to take all steps necessary to be in a position to present this report making recommendations as to the Code, the procedures and the necessary appointments.

There is no statutory model Code, however, following discussions at meetings of the Derbyshire Monitoring Officers and members through Cabinet, a copy of the proposed Code of Conduct was attached to the report. This is based on the Local Government Association draft with some modifications. It is simple in format and intended to be user friendly. Both written guidance and training will be provided. Once approved the Council must advertise the Code.

Interests are split into two groups. The first is Disclosable Pecuniary Interests (DPI). These have been proscribed by Regulations. These are the ones around which there are criminal offences for failure to comply.

Section 28(2) of the Localism Act 2011 also provides for the Council to add to the Code interests other than pecuniary interest where the Council considers this appropriate. Failure to comply with these would be a breach of the Code, but not a criminal offence.

Under Section 29 of the same Act, the Monitoring Officer is required to keep a Register of members' interests and to place these details on the website. The Monitoring Officer is also required to do the same with the Parish/Town Council Registers. These Registers must also be available for inspection by the public.

A Gifts and Hospitality Register must also be maintained, this relates to anything with a value of £100 or more and this Register is kept by the Chief Executive Officer's Personal Assistants.

Disclosing Interests - the obligation is to register interests within 28 days of them arising. The Act does not require the disclosure of registered DPIs in meetings or the withdrawal of the Councillor from the meeting. However, in the interest of openness and transparency this requirement has been included in the proposed Code of Conduct. The legislation recognises that authorities may wish to include standing orders requiring members to leave in such circumstances and this is what is proposed. Details of these proposals and amendments are included in the recommendations.

Members were advised of the new section on Criminal Offences and that these would only be used in the most serious cases. The penalties for these more serious breaches were detailed in the report.

Section 28 (6)(b) of the Act requires that the Council has arrangements in place for dealing with complaints. However, there is no requirement to have a Standards Committee. Following informal discussions with Members, it was established that the easiest way for hearing complaints was by way of a Standards Committee.

The Standards Committee would have to be politically balanced, there may be co-optees on the committee. However, the co-optees may not vote. A co-optee could be Chair of the Committee, but would not be able to exercise a casting vote on any issue. It was suggested that a Standards Committee be established which consists of six elected members, four Labour Councillors and one from each of the Opposition Groups in addition there should be two non elected persons formally co-opted to the previous Standards Committee. It was suggested that the previous Chair and Vice Chair, John Yates and Ruth Jaffray be appointed as the co-optees. There was also the possibility that the Committee could have Parish Council representatives.

Changes to Standards Committee would have an effect on Audit Committee. Audit Committee currently consists of three elected members and three co-optees. It was recommended that Audit Committee should consist of six elected members and two co-optees, it would have to be politically balanced resulting in there being four Labour Councillors, one Independent Councillor and one Residents Association. Again there could be co-optees on the Committee.

It was suggested that the Independent Remuneration Panel consider allowances in relation to co-optees and the Chair and Vice Chair for both Standards and Audit Committees.

The new system does not require the setting up of an assessment sub committee to consider complaints. Instead it is left for the Council to set up its own procedure. A flow chart setting out responsibilities for dealing with complaints was attached to the report and under this system the assessment of complaints would be carried out by the Monitoring Officer. Any hearing panel would consist of three elected members and no co-optees.

Section 28 of the Act requires the Council to appoint at least one independent person; it was recommended that two are appointed to give some resilience in this role. The new role gives a check and balance on the consideration of allegations against members at various states of the process. The Independent Persons are not members of the Standards Committee.

Members were advised that there were 24 applicants for the position of Independent Persons and the interviews were held on 9th July. The Interview Panel consisted of the Deputy Leader, Councillor Clifton the Chief Executive Officer and the Deputy Monitoring Officer. The Panel recommended the appointment of Mr. S. Wainwright and Mr. S.M. Wood.

The Monitoring Officer has written to all the Parish/Town Councils explaining what the District is doing and sending a draft of the proposed Bolsover Members' Code of Conduct. The Parish/Town Councils have a choice as to which Code they adopt, some have expressed a desire to adopt the same Code as the District Council.

The Monitoring Officer and her deputy will be attending the Parish Liaison Meetings at the end of July to talk to the Parishes about these issues.

Moved by Councillor A.F. Tomlinson, seconded by Councillor M. Dooley
RESOLVED that (1) Members adopt the Code of Conduct as attached to the report as the Bolsover District Council Members' Code of Conduct, in accordance with Section 27(2),

(2) the following be approved for inclusion in the Council Procedure Rules of the Constitution:-

4.1.4A1. Where a Member has a Disclosable Pecuniary Interest in any business of the Authority; the Member must withdraw from the meeting room whenever it becomes apparent that the business is being considered, unless the member has been granted a dispensation.

4.1.4.A.2. Where a Member has a non statutory interest (as defined in the Bolsover Members' Code of Conduct) in any business of the Authority, and that interest is significant, the Member must withdraw from the meeting room whenever it becomes apparent that the business is being considered.

Moved by Councillor K. Bowman, seconded by Councillor A.F. Tomlinson

RESOLVED that 3 (1) a Standards Committee be established,
(2) there be four Labour Councillors, one Independent Councillor and one Residents Association Councillor,
(3) John Yates and Jean Ruth Jaffray be co-opted onto the Standards Committee, with no voting rights,
(4) John Yates to be the Chair and Jean Ruth Jaffray to be the Vice Chair of Standards Committee,
(5) there should be no Parish/Town Council representative on Standards Committee,
(6) the Terms of Reference as submitted be accepted,

RESOLVED that 4 (1) a new Audit Committee be established,
(2) there be four Labour Councillors, one Independent Councillor and one Residents Association Councillor,
(3) the Council appoint John Yates and Joanne Hill as co-optees onto the Committee, with no voting rights,
(4) John Yates to be the Chair and Joanne Hill as Vice Chair of Audit Committee,
(5) the Terms of Reference remain the same as for the previous Audit Committee.

Moved by Councillor A.F. Tomlinson, seconded by Councillor D. McGregor

RESOLVED that (5) the attached flow chart showing the outcomes for consideration of complaints be approved,

Moved by Councillor A.F. Tomlinson, seconded by Councillor D. McGregor

RESOLVED that (6) authority be delegated to the Monitoring Officer to develop and approve a complaints process based on the flow chart but with the proviso that the Monitoring Officer can refer assessments of a complaint to the Standards Committee in appropriate circumstances,

(7) authority be delegated to the Monitoring Officer to select three Members of Standards Committee to sit on a Hearing Panel with power to determine allegations that a Councillor has breached the relevant Code of Conduct,

Moved by Councillor A.F. Tomlinson, seconded by Councillor D. McGregor

RESOLVED that (8) an Independent Remuneration Panel be set up to consider the allowances for the co-optees and Chairs and Vice Chairs of both Audit and Standards Committee,

Moved by Councillor A.F. Tomlinson, seconded by Councillor D. McGregor
RESOLVED that (9) in accordance with the recommendations of the Interview Panel that Mr. S. Wainwright and Mr. S.M. Wood be appointed an Independent Persons and receive an annual payment of £800,

Moved by Councillor A.F. Tomlinson, seconded by Councillor D. McGregor
RESOLVED that (10) authority be granted to the Monitoring Officer to do anything necessary to bring the system into operation or subsequently to improve the operation of the system in consultation with the Leader and Deputy Leader,

that (11) authority be granted to the Monitoring Officer, in consultation with the Independent Person, to grant dispensations to Members to allow them, in accordance with the legislative requirements, to participate in and vote upon items in which they have a Disclosable Pecuniary Interest or other Interest.

(Solicitor to the Council/Head of Democratic Services)