

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Council
AUTHOR/S: Monitoring Officer

26th July 2012

CODE OF CONDUCT 2012 & COMPLAINTS PROCEDURE

Purpose

1. The Localism Act 2011 introduced a new standards regime and the previous statutory Code of Conduct for Members was repealed on 30 June 2012. Each local authority must adopt its own Code of Conduct to take effect "on or after 1st July 2012". The purpose of this report is for Council to adopt a new Code of Conduct and associated complaints procedure, following consideration of both by the Standards Committee and the Constitutional Review Working Group.

Recommendations

2. That the Council:
 - (a) adopts the Code of Conduct attached as Appendix A.
 - (b) approves the Complaints Procedure Flowchart attached as Appendix B
 - (c) approves the Code of Conduct Complaints procedure attached as Appendix C

Reasons for Recommendations

3. The Council is required by law to adopt a Code of Conduct for Elected Members and agree a procedure for handling complaints concerning breach of this code.

Background

Code of Conduct

4. The Localism Act 2011 has led to fundamental changes to the way in which the conduct of elected and co-opted councillors are regulated. The Act dissolved the strategic regulator, Standards for England, which had oversight of the previous ethical standards system and simplifies the processes required to replace it.
5. The Council is now required to comply with a statutory duty "to promote and maintain high standards of conduct" amongst its own elected members and any co-opted members. All Parish Councils within South Cambridgeshire will be under the same duty for their members.
6. The Council must adopt a code of conduct for its member, devise and implement arrangements for the investigation of alleged breaches of the code and maintain a register of members' interests.
7. The Localism Act 2011 states that any local code must be consistent with the Nolan principles of:
 - (a) Selflessness
 - (b) Integrity
 - (c) Objectivity
 - (d) Accountability

- (e) Openness
- (f) Honesty
- (g) Leadership

8. With the objective of achieving a common way forward across the Cambridgeshire authorities so that all councillors at all three tiers of local government were subject to the same code and in the absence of any published national model code at the time, all the Monitoring Officers in the county drafted a template "Cambridgeshire Code" in March 2012.
9. On 11 April 2012, Department of Communities and Local Government ("CLG") published an "illustrative text" for a Code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity and shortly afterwards the Local Government Association (LGA) published their own draft Code. The National Association of Local Councils ("NALC") also issued a template code for parish councils although the Cambridgeshire and Peterborough Association of Local Councils ("CPALC") are understood to have recommended to its membership that parish councils adopt the same code as the district council for their area.
10. The Council's Standards Committee considered all the template codes and acknowledged that there was considerable merit in adopting the same code across the three tiers of local government across the county. The Committee considered that the DCLG and LGA Codes were not written in a way that would be workable in practice and preferred the Cambridgeshire Code, which contained the majority of the first section of the former code of conduct which members were already familiar with and which the Council was accustomed to interpreting. The Committee recommended that Council adopt this code, subject to further amendments being made by the Monitoring Officer.
11. On 8th June 2012 Regulations were issued by the Department of Communities and Local Government (DCLG) outlining what 'Disclosable Pecuniary Interests' (DPIs) Members will have to declare. The rules regarding these interests needed to be added to all the template codes.
12. The regulations adopt a significantly different approach to the former provisions on interests as they omit several categories of associated persons such as children, parents and close associates whose interests potentially give rise, by association, to a disclosable interest for a member. For example, the new DPIs do not give rise to a disclosable interest for a member taking part in a meeting to decide whether to grant planning permission for a housing development adjoining their mother's back garden. Nor would it give rise to a disclosable interest for a member taking part in a decision as to whether the council should award a contract to a company owned by their son or daughter.
13. An amended version of the Cambridgeshire Code was adopted by Huntingdonshire District Council on 4th July 2012 and considered alongside the other codes by the Council's Constitutional Review Working Party (CRWP) at its meeting on 10th July 2012. The CRWP, comprising members of all the Council's political groups, preferred this amended version of the code, attached as **Appendix A**, for reasons of ethical transparency and has recommended it to Council for adoption.
14. This code also includes other non-pecuniary interests in addition to the statutory DPIs, in order to cover situations where an interest could arise from other members of a councillor's family (other than a spouse or partner) or anyone else with whom a

close association exists, which may affect the ability of the councillor to participate objectively in decision-making.

Complaints procedure

15. Outline procedures for the administration of complaints that a councillor has breached the code of conduct were considered by the Standards Committee at its meetings on 5th April 2012 and 20th June 2012. A final amended version of a complaints handling flowchart is attached at **Appendix B** with a written complaints procedure guide attached at **Appendix C**.
16. The key difference from previous procedures is that the subject member will be contacted at the earliest stage of the process for their response to the complaint, a step which was previously prohibited by the Local Government Act 2000. This will mean that the decision about whether an investigation is necessary will be based on the full picture, rather than just one side of the story, which has always been a perceived failure of the previous process.
17. The other main difference is that opportunities to resolve complaints using methods other than the formal process are built into every stage of the process, which should mean that a formal hearing is very uncommon in future.
18. The Committee felt that further changes were necessary to increase the initial filter of complaints, particularly those concerning parish councillors, which formed the vast majority of complaints made.
19. The flowchart was amended to reflect the suggestion that parish council would be expected to have adopted their own parish council complaints procedures and use these in the first instance for complaints about their councillors. A model version of a parish complaints process had been circulated to all parish councils in the district and an additional procedure for handling code of conduct related complaints by parishes had been drafted by Cottenham Parish Council and circulated to all parishes for their consideration.
20. SCDC would therefore only proceed with complaints concerning parish councillors if the parish complaints process had first been used and if any measures taken at parish level were not considered to be reasonable in the circumstances.
21. The Standards Committee's only residual concern with the process attached at Appendix B was the potential for pressure to be placed by members on the Monitoring Officer, who would be taking the decision about what should happen to a complaint alongside the new Independent Person. The Committee wish Council to consider the alternative of a small panel of councillors from the Civic Affairs Committee making this decision instead of the Monitoring Officer.

Considerations

22. Strong ethical governance is critical to the corporate governance of the authority and supports the Council's decision making processes across the organisation as a whole. Members of the public need to expect the highest standards of conduct from its elected members and have confidence that any complaints procedure is robust and transparent.
23. If the Council fails to adopt a code of conduct which is fit for purpose or to establish an appropriate procedure for complaints to be effectively dealt with then there are

risks to the Council from a reputational management viewpoint and also to the integrity of the Councils corporate governance and decision making process.

Implications

24.	Financial	None specific.
	Legal	As detailed in the body of the report.
	Staffing	None specific.
	Risk Management	None specific.
	Equality and Diversity	None specific.
	Equality Impact Assessment completed	No. The Code of Conduct will apply to all councillors and co-opted members equally.
	Climate Change	None specific.

Consultations

25. The Council's Standards Committee was consulted throughout the process along with the CRWP.

Consultation with Children and Young People

26. Not relevant.

Background Papers: the following background papers were used in the preparation of this report:

Localism Act 2011

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