

STANDARDS COMMITTEE – LOCALISM ACT 2011

Relevant Portfolio Holder	Cllr Phil Mould, Portfolio Holder, Corporate Management
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Ward(s) Affected	None specifically.
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Non Key

1. SUMMARY OF PROPOSALS

- 1.1 To adopt the finalised Code of Conduct following publication of Regulations, which enabled the draft Code of Conduct to be completed.
- 1.2 To adopt the Arrangements for handling standards complaints against elected/co-opted members, finalised since the Annual Meeting.
- 1.3 To adopt the Code and Arrangement following the making of the Commencement Order for the standards provisions under the Localism Act, enabling these provisions to come into force.
- 1.4 To appoint the Independent Person/s (to be named at the meeting)
- 1.5 To delegate to the Standards Committee and Monitoring Officer authority to administer the standards procedures and processes adopted by the Council and make consequential amendments to the Constitution.
- 1.6 To agree to continue the requirement for Members to register Gifts and Hospitality.

2. RECOMMENDATIONS

The Council is asked to RESOLVE that

- 1) the Code of Conduct attached at Appendix 1 to this report be approved;**
- 2) the Arrangements for Managing Standards complaints at Appendix 2 to this report be approved;**
- 3) the two candidates recommended by the selection panel (to be named at the meeting) be appointed as Independent Persons under**

the Localism Act 2011;

- 4) authority be delegated to the Standards Committee and Monitoring Officer to administer the Standards procedures and processes relating to the Code of Conduct and Arrangements for managing standards complaints as adopted by the Council;**
- 5) authority be delegated to the Monitoring Officer to make any additional consequential amendments to the Constitution required to implement the arrangements and processes and the decision regarding gifts and hospitality at 6), below ; and**
- 6) Members agree to continue the practice of registering all gifts and hospitality on a publically available register recognising that they continue to have a duty to act with openness, honesty and integrity and in order to comply with the requirements of the Council's Anti-Bribery Policy**

3. KEY ISSUES

Financial Implications

- 3.1 None

Legal Implications

- 3.2 Under the Localism Act 2011, the Council must adopt a Code of Conduct and have in place arrangements under which allegations that a Member or co-opted Member of the authority (or parish council within the authority's area), has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.
- 3.3 The Localism Act requires that the Council must appoint at least one Independent Person, who must be consulted by the authority before it makes a decision on an investigated allegation against a Member (that is at the hearing stage) and otherwise can be consulted by the authority, the Member complained against or a Parish Member who is the subject of an allegation.
- 3.4 On 6 June 2012, The Localism Act 2011 (Commencement No6 and Transitional, Savings and Transitory Provisions) Order 2012 ("the Commencement Order") disapplied the old standards regime from 1 July 2012, brought the new regime into force from the same day and partially commenced certain provisions from 7 June 2012, enabling authorities to prepare for the new regime.

- 3.5 Under the Bribery Act 2010, which came into force on 1 July 2011, the Council is required to have an anti-bribery policy and needs to have “adequate procedures” in place to prevent bribery of or by or of both Members and Officers of the Council and s27 of the Localism imposes a duty on the Council to promote high standards of conduct by Members and co-opted Members of the authority.

Service / Operational Implications

Code of Conduct

- 3.7 At the Annual Meeting of the Council on 21 May 2012, the Council approved a draft Code of Conduct and draft arrangements for handling complaints against Members and co-opted Members of the authority (and Feckenham Parish Council).
- 3.8 The Code of Conduct must include the provisions the authority considers appropriate in respect of the registration and disclosure of pecuniary interests and interests other than pecuniary interests.
- 3.9 It was not possible to complete the Code of Conduct prior to the publication (on 6 June 2012) of “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012” (“the Regulations”) as no definition of what comprised a “disclosable pecuniary interest” was available until then.
- 3.10 The finalised Code of Conduct is attached at **Appendix 1**

Arrangements for Managing Standards complaints

- 3.11 Draft arrangement presented to the Annual Meeting have been finalised and are attached at **Appendix 2**
- 3.12 The Arrangements refer to procedures for investigating complaints and for arranging hearings, where required, under those arrangements. At the Annual Meeting of the Council, authority was delegated to the Monitoring Officer, in consultation with Party Group leaders, to determine the process for managing an investigation and hearing, when required.

Commencement and Adoption

- 3.13 On 6 June 2012, The Localism Act 2011 (Commencement No6 and Transitional, Savings and Transitory Provisions) Order 2012 (“the Commencement Order”) disapplied the old standards regime from 1 July 2012, brought the new regime into force from the same day and partially commenced certain provisions from 7 June 2012.

- 3.14 Following the making of the Commencement Order referred to at 3.3 above, the Council is required to ratify the Code of Conduct and Arrangements as finalised after the Order was made.

Independent Persons

- 3.14 At the Annual Meeting of the Council on 21 May 2012, authority was delegated to the Monitoring Officer to carry out the recruitment and selection of Independent Persons, which are required by the Localism Act to assist with the discharge of the management of complaints against Members and co-opted Members of the Council and Feckenham Parish Council.
- 3.15 Following the Annual Meeting the process to advertise and interview candidates for the position of Independent Persons was implemented and interviews have taken place in the last two weeks.
- 3.16 The outcome of the selection process will be provided to Members at the Council meeting and this report invites the Council to appoint the successful candidates as Independent Persons.

Delegations

- 3.17 The discharge of the functions relating to Standards under the Localism Act 2011 are Council functions and in order for the Standards Committee and the Monitoring to implement and administer the Standards procedures and processes relating to the Code of Conduct and Arrangements for managing standards complaints as adopted by the Council, a delegation to this effect is required and is set out at Recommendation 4 to be resolved by the Council.
- 3.18 A further delegation is proposed, which will enable the Monitoring Officer to make any additional consequential amendments to the Constitution required to implement the arrangements and processes adopted by the Council and the decision regarding Gifts and Hospitality, if approved.

Gifts and Hospitality

- 3.19 The Localism Act 2011 (and Regulations made under the act) did not include any provisions requiring members or co-opted members to register gifts and hospitality, which was formerly the case. However, the Council does still have a duty to promote high standards of conduct by Members and co-opted Members.

- 3.20 To comply with the requirements of the Bribery Act 2012, the Council adopted an Anti-Bribery Policy at its February 2012 meeting.
- 3.21 Under the terms of this policy all employees and elected Members are prohibited from soliciting, arranging or accepting bribes intended for the benefit of the Council, or for their personal benefit, or for the benefit of the employee's family, associates or acquaintances. This Policy extends to all the Council's business dealings, transactions and decisions.
- 3.22 Under Section 7 of the Bribery Act 2010, an organisation will have a defence to the corporate offence under Section 7 if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation.
- 3.23 Maintaining a requirement for gifts and hospitality to be registered will be one of the procedures that are in place designed to prevent bribery within the organisation and will also support the Council's duty under the Localism Act to promote high standards of conduct and individual Members/co-opted Members' regard for the principles of "selflessness", "integrity" and "openness" within the Code of Conduct.
- 3.24 Previously, there were monetary limits on the requirement to register gifts and hospitality but it is recommended to the Council that it will be considerably simpler for all concerned if these are removed and a simple requirement for all gifts and hospitality be introduced. As well as being more straight-forward, this also supports the anti-bribery and transparency requirements under the Bribery Act 2010 and the Code of Conduct referred to in 3.23 above.
- 3.25 If the proposal regarding Gifts and Hospitality is approved, the Code of Conduct for Councillors regarding Gifts and Hospitality will be amended to reflect the decision, under the delegation to the Monitoring Officer to make necessary consequential changes to the constitution

4. RISK MANAGEMENT

- 4.1 The Chief Executive and the Monitoring Officer work closely with the Leaders of all Party Groups to ensure that effective working relationships with all Members can be maintained.
- 4.2 By adopting the Code of Conduct and the arrangements as attached to this report the Council is ensuring that it complies with the statutory requirements for managing complaints and to discharge the duty to promote high standards in public life, at Borough and Parish level.

- 4.3 Maintaining a requirement for Members and co-opted Members to register gifts and hospitality will also assist with the Council's anti-bribery arrangements and the duty to promote high standards of conduct.

5. APPENDICES

Appendix 1 - Code of Conduct

Appendix 2 – Arrangements for managing standards complaints

6. BACKGROUND PAPERS

Localism Act 2011

Statutory Instruments No 2012/ 1463 – The Localism Act 2011 (Commencement, No 6 and Transitional Savings and Transitory Provisions) Order 2012; and Statutory Instrument No 2012 / 1464 – The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Reports / Minutes of Annual Meeting of the Council on 21 May 2012.

AUTHOR OF REPORT

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