



SHEFFIELD CITY COUNCIL Report to Council

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Report of: Deputy Chief Executive

Date: 13 June 2012

Subject: New Standards Framework

Author of Report: Lee Adams, Monitoring Officer

Summary:

This report is intended to advise Members of changes to the standards regime and ask Council to agree to continue the current Code of Conduct until a new Code of Conduct and a procedure for dealing with allegations of breaches of the Code is brought to Council on the 4th of July 2012.

The current Standards Regime will be abolished by the Localism Act 2011 on the 1st July 2012. The Act requires that each Local Authority adopt a Members' Code of Conduct and appoints at least one Independent Person as defined by the Act. The Authority will remain under a statutory duty to promote and maintain high standards of conduct for its Elected and co-opted Members. There is a duty to have a process to deal with complaints but a process is not prescribed. There is no requirement that a Standards Committee be established to deal with complaints, but it will be recommended that a Standards Committee be established as a Committee of full Council

The Act also abolishes Personal and Prejudicial Interests and introduces Disclosable Pecuniary Interests (DPIs). Regulations and Guidance relating to DPIs and the standards regime have not yet been issued by the Government. Regulations have been issued in draft form relating to DPI's and are being consulted upon. They may be changed upon consultation and therefore can not be included in a draft Code of Conduct at the time this report was written. It is therefore recommended that the existing Code is extended between the 1st and 4th of July, so that a comprehensive Code and procedure can be presented to Council on the 4th July 2012.

Recommendations:

That the Council:-

- (1) Re-adopts the Model Code of Conduct for Members in the Constitution. Parts two and three to remain in force only until new regulations come into force relating to Members' interests.

- (2) Agrees that any Standards complaint made after the 1st of July will be dealt with in accordance with the procedure which will be subsequently adopted by the Council.
- (3) That an Independent Person be appointed in compliance with the Localism Act and authority be given for the Monitoring Officer to make the appropriate arrangements for the recruitment and selection of an Independent Person.

Background Papers: Constitution of Sheffield City Council

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial implications
NO
Legal implications
YES – Cleared by Lynne Bird
Equality of Opportunity implications
NO
Tackling Health Inequalities implications
NO
Human Rights implications
NO
Environmental and Sustainability implications
NO
Economic impact
NO
Community Safety implications
NO
Human Resources implications
NO
Property implications
NO
Area(s) affected
None
Relevant Scrutiny Committee if decision called in
N/A
Is the item a matter which is reserved for approval by the City Council?
Yes
Press release
NO

New Standards Framework

1. Introduction

- 1.1 The Localism Act 2012 abolishes the pre existing Standards Regime and introduces new provisions. The Act is being implemented incrementally; the Standards Board for England has already been abolished. From the 1st of July 2012 mandatory provisions in relation to Members' conduct are abolished and replaced by a duty to adopt a Code of Conduct. Changes to Prejudicial and Personal Interests are set out in the Act. It was expected they would be implemented by the 1st of July but no Regulations setting out the details of their proposed replacement Disclosable Pecuniary Interests (DPIs) and new requirements to register interests have yet been issued.

The Authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

The content of the Code of Conduct, how it is implemented, investigated and the sanctions imposed are a matter for each individual authority. Guidance and a national draft code were expected but have not yet been issued by the Government. A number of draft Codes have been issued by local government bodies but they lack clarity.

The statutory penalties for breach of the Code have been abolished and breaches of Code must be dealt with by existing powers and by agreement of the Members of the Council.

A new Code of Conduct can not be completed until the Regulations are in place. They are currently being consulted upon and are likely to be in force by the 1st of July. To be able to present Council with a complete Code and procedure for dealing with breaches of the Code it is proposed that the existing code be re-adopted until Full Council on the 4th of July when a report will be brought proposing a new Code of Conduct.

2. Changes Introduced by the Localism Act

- 2.1 In summary the main provisions relating to standards are:-

1. to abolish Standards Board for England from January 2012
2. to remove the First-tier Tribunal's (Local Government Standards in England) jurisdiction over member conduct
3. the authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members
4. to remove the national Code of Conduct but imposes a duty to adopt a code which upholds specified principles and contain provisions relating to declarations of interest
5. breach of the code or pre determination does not invalidate any decision made by the Council
6. to allow councils to choose how complaints are investigated
7. remove existing sanctions for breach of the Code
8. to introduce a new role of independent person
9. impose a duty to have in place procedures to receive and deal with a complaint
10. to create a criminal offence relating to failure to register or declare

interests.

2.2 Independent Person

- 2.2.1 In accordance with Section 3 of the Localism Act, the Council must appoint at least one Independent Person in a prescribed manner including an advertisement of the post. The Independent Person must be consulted before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of a Member. They may be consulted by the Authority in respect of a standards complaint at any other stage. It is intended that the Independent Person would receive the co-optees allowance.

3. Changes Required to Comply with the Act

3.1 Code of Conduct

- 3.1.1 There is no set format for a Code of Conduct, however, the new Code of Conduct has to give effect to seven principles which correspond broadly with Paragraphs 3 to 7 of the current Code of Conduct. They are:-

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

The Council may add other relevant issues and modify the existing paragraphs dealing with the principles.

- 3.1.2 The Code should contain details of the registration and disclosure of interests other than DPs – effectively, replacing the current personal interest's provisions. The Act requires that the Code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPs; it is difficult to decide what additional disclosure would be appropriate.

3.2 Standards Committee

- 3.2.1 In line with the Local Government Act 2000, the Council has established a Standards Committee comprising 5 elected Members (one of which should be the Cabinet Member whose remit includes ethical standards in the Council), 4 Independent Lay Members and 3 Parish Councillor representatives, to recommend the adoption of a Code of Conduct for Members and to provide advice and training in relation to ethical standards and in addition to consider any allegation of misconduct. The political balance rules do not apply to the Standards Committee. The terms of reference for the Committee are contained in Part 3 of the Council's Constitution.

- 3.2.2 The Localism Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. There is no requirement for a Council to set up a Standards Committee. However, it is

recommended that a Standards Committee is retained. It will be a Committee of Council, without the unique features which were conferred by the previous legislation. As a result, the composition of the Committee will be governed by proportionality unless the rules as to proportionality are disapplied. Detailed provisions in relation to the Standards Committee will be presented to Council in the separate report on the 4th of July.

4. FINANCIAL IMPLICATIONS

4.1 There are no significant financial implications arising from this report.

5. LEGAL IMPLICATIONS

5.1 The legal implications are set out in the body of this report.

6. RECOMMENDATIONS

6.1 That the Council:-

- (1) Re-adopts the Model Code of Conduct for Members in the Constitution. Parts two and three to remain in force only until new regulations come into force relating to Members' interests
- (2) Agrees that any Standards complaint made after the 1st of July will be dealt with in accordance with the procedure which will be subsequently adopted by the Council.
- (3) That an Independent Person be appointed in compliance with the Localism Act and authority be given for the Monitoring Officer to make the appropriate arrangements for the recruitment and selection of an Independent Person.

Lee Adams
Deputy Chief Executive