



**Ward: N/A**

## **Future of Standards - Localism Act, 2011**

### **Report by the Executive Head of Corporate & Cultural Services and Monitoring Officer**

#### **1.0 Summary**

1.1 To recommend to Adur District Council the adoption of a Code of Conduct and the creation of a Standards Committee.

#### **2.0 Background**

2.1 The current standards regime was established under the Local Government Act 2000 and amended by the Local Government and Public Involvement in Health Act 2007.

2.2 The current Code of Conduct is a statutory code created under that legislation.

2.3 The Localism Act, which has received Royal Assent, but the relevant sections of which are not in yet force, makes substantial changes to the Standards Regime in relation to Members in that it removes:

- (a) Standards for England;
- (b) The mandatory requirement for there to be Independent Members on local standards committees;
- (c) The mandatory Model Code of Conduct.

2.4 The Act, however, replaces these with:

- (a) a requirement for a standards committee, which could be a joint committee;
- (b) a requirement for each Council to adopt a Code of Conduct which, taken as a whole is consistent with the following principles -
  - (i) selflessness;
  - (ii) integrity;
  - (iii) objectivity;
  - (iv) accountability;
  - (v) openness;
  - (vi) honesty;
  - (vii) leadership.

- (c) A requirement that the Code of Conduct has appropriate provisions in respect of the registration and disclosure of pecuniary and non-pecuniary interests
- 2.5 The Act requires that the Council promotes and maintain high standards of conduct by Members and Co-opted Members and that it adopt 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.
- 2.6 The Act provides that the Council may -
- (a) revise its existing Code of Conduct; or
  - (b) adopt a Code of Conduct to replace its existing Code of Conduct.
- 2.7 The arrangements put in place under 2.7 above must include provision for the appointment by the Council of at least one independent person -
- (a) whose views are to be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate, and
  - (b) whose views may be sought -
    - (i) by the Council in relation to an allegation in circumstances not within paragraph (a);
    - (ii) by a Member, or Co-opted Member, of the Authority if that person's behaviour is the subject of an allegation; and
    - (iii) by a Member, or Co-opted Member, of a Parish Council if that person's behaviour is the subject of an allegation and the Authority is the Parish Council's principal Authority.
- 2.8 The Act provides that allegation must be in writing and that the Council must put in place:
- (a) arrangements under which allegations can be investigated; and
  - (b) arrangements under which decisions on allegations can be made.
- 2.9 The current arrangements for the Standards Committee for Adur District Council is that it consists of:
- (a) Three elected District Council Members (who shall not be the Leader of any political group);
  - (b) Four independent persons (who shall not be Councillors or officers of the Council or any other body having a local authority Standards Committee under the Local Government Act 2000); and
  - (c) Two elected Parish Council Members, one from each of the Parish Councils in the District.

- 2.10 Under the Localism Act, there will be no requirement for Independent Members to be appointed to the Committee.
- 2.11 The Council currently works closely with Worthing Borough Council and has all its functions jointly provided primarily through the Joint Committee Structure and, therefore, the Monitoring Officer would suggest that it would be appropriate for Adur District Council to have a Joint Standards Committee with Worthing Borough Council.
- 2.13 The Localism Act, as set out above, places a duty upon the Council to promote and maintain high standards of conduct by Members and Co-opted Members and, therefore, the Monitoring Officer suggests that it may be appropriate for the new Joint Standards Committee to include three Elected Members from each Council made up of:
- (a) One Member of the Executive from each Council; and
  - (b) Two Members from each Council who are not Members of the Executive.
- 2.14 The current arrangements with regard to the receipt and investigation of allegations is, in the opinion of the Monitoring Officer, perceived by Members to be cumbersome and secretive.
- 2.15 Currently, the Government has not issued any guidance as to how allegations should be investigated and determined and appears to be leaving that to local discretion. Therefore, the Monitoring Officer would propose the following outline, the details of which can be worked out at a later date:
- (a) All allegations to be made in writing (including e-mail) to the Monitoring Officer;
  - (b) Monitoring Officer to determine whether or not the matter should progress to a discussion with the Independent Person;
  - (c) If progressed, the Monitoring Officer to determine with the Independent Person's advice whether or not the matter should be investigated, at which time the Subject Member will be notified of the complaint and the details of the investigation;
  - (d) Monitoring Officer to cause the matter to be investigated or the complainant to be written to, indicating that the matter will not be investigated;
  - (e) There will have to be an appeals process for matters that are not to be investigated;
  - (f) Monitoring Officer to report to the Standards Committee with the findings of the investigation;
  - (g) Standards Committee to determine the allegation and either dismiss it or impose sanctions.

- 2.16 It may be desirable for there to be an alternative system which allows the Monitoring Officer, having consulted with the Independent Person, to address the matter informally with the Subject Member by the provision of training, guidance, an apology or similar outcome.

### **3.0 Proposals**

- 3.1 That the Committee considers the existing Code of Conduct for Members and makes recommendations to Full Council as to whether to amend the existing Code or to adopt a new code.
- 3.2 That the Committee considers the current arrangement for the Standards Committee and makes recommendations to Full Council on a new joint Standards Committee
- 3.3 That the Committee considers the current arrangements for the investigation and determination of allegations and recommends to Full Council whether or not there should be any changes

### **4.0 Legal**

- 4.1 The current Standards regime is governed by the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007.
- 4.2 Under Section 111 of the Local Government Act 1972, the Council can do anything that is ancillary to its current functions.
- 4.3 The Localism Act has received Royal Assent, but the sections relating to standards are not yet in force.

### **5.0 Financial implications**

- 5.1 There are no particular financial implications arising from this report.

### **6.0 Recommendation**

- 6.1 That the Committee recommends to Full Council that paragraphs 1, 2, 3.1, 3.2, 3.4 and 3.6 of the current Statutory Code of Conduct for Members and all the agreed local protocols, should be contained in a Local Code of Conduct.
- 6.2 That the Committee recommends to Full Council that the procedure be adopted for the receipt, consideration, investigation and determination of allegations.
- 6.3 That the Committee recommends to Full Council that it establishes a Joint Standards Committee with Worthing Borough Council consisting of 3 elected Members from each Council to be made up of:
- (a) One Member of the Executive from each Council;
  - (b) Two Members from each Council who are not Members of the Executive.

**Local Government Act 1972  
Background Papers:**

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## **Schedule of Other Matters**

[To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified."]

### **1.0 Council Priority**

1.1 Matter considered and no issues identified

### **2.0 Specific Action Plans**

2.1 (A) Matter considered and no issues identified  
(B) Matter considered and no issues identified

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified

### **6.0 Human Rights Issues**

6.1 Article 6 of the European Convention on Human Rights provides that;  
"In the determination of his civil rights everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

### **7.0 Reputation**

7.1 If the Council does not have a code of conduct but other Councils in the County do then this is likely to have a detrimental effect upon the reputation of the Council.

7.2 Having no means of setting out what level of conduct is expected of Councillors is likely to have a detrimental effect on the reputation of the Council.

### **8.0 Consultations**

8.1 (A) Matter considered and no issues identified  
(B) Matter considered and no issues identified

## **9.0 Risk Assessment**

9.1 Matter considered and no issues identified

## **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified

## **12.0 Partnership Working**

12.1 If the Council works with other Councils in partnership arrangements and Members sit on joint committees it would be beneficial if all Members from the various Councils are subject to the same Code of Conduct