

 <b>Standards Committee</b> <b>9 September 2014.</b>		<b>Agenda Item No. 6</b>
<b>Title</b>	Review of Councillor Code of Conduct & Associated documents	
<b>For further information about this report please contact</b>	Graham Leach, Democratic Services Manager & Deputy Monitoring Officer, 01926 456114 or <a href="mailto:graham.leach@warwickdc.gov.uk">graham.leach@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	None	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Standards Committee 21 October 2013	
<b>Background Papers</b>	Localism Act 2012	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality and Sustainability Impact Assessment Undertaken</b>	No

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive		
Head of Service		
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)		
<b>Consultation &amp; Community Engagement</b>		
The report is brought forward by the Code of Conduct Working Party and proposes further consultation.		
<b>Final Decision?</b>	Yes/No	
<b>Suggested next steps (if not final decision please set out below)</b>		

## 1. **Summary**

- 1.1 The report brings forward proposed revised arrangements for handling complaints about Councillors Conduct, along with its associated documents; and a slightly revised Code of Conduct and associated documents.

## 2. **Recommendation**

- 2.1 The Committee considers and responds to the views of the Council's Legal Advisors as set out in Paragraph 8.6 of the report.
- 2.2 The Committee approves documents attached as Appendices A to D for consultation with
  - (a) All Warwick District Councillors;
  - (b) All Parish & Town Council's within Warwick District; and
  - (c) The Warwickshire Association of Local Councils.
- 2.3 The Standards Committee supports the main concerns for inclusion in a letter to be sent to the Secretary of State for the Department of Communities and Local Government as set out in section 8.4 of the report.
- 2.4 The main concerns, as set out in section 8.4, are reported to Warwick District Council in September 2014 asking them to authorise the Chairman of the Council to write to the Secretary of State for the Department of Communities and Local Government outlining those concerns.
- 2.5 The proposed letter, in 2.3, is circulated to all parties listed in 2.2 (a) to (c), as well as the two Members of Parliament for Warwick District, the Local Government Association, the National Association of Local Councils and Chair for the Committee for Standards in Public Life.
- 2.6 The Committee notes the timetable for the introduction of the new Code and arrangements.

## 3. **Reasons for the Recommendation**

- 3.1 The Constitution Working Party has considered the current arrangements and feedback received on these and brings forward the revised proposals to enable formal consultation to be undertaken.
- 3.2 The revised documents are not radically different but now incorporate a number of matters, previously undertaken, but not formally written down. In addition, the process has been reduced in both size and length and now written in the third person.
- 3.3 All members of the Standards Committee have expressed their frustration with the lack of teeth of the current Standards Regime. This was also expressed in some of the feedback from the first set of consultation. From this, the Working Party drafted a set of views they thought would be supported by this Committee and Council for submission to the secretary of state of the Department of Communities and Local Government.

#### 4. **Policy Framework**

4.1 **Policy Framework** – This report does not impact on the Council’s Policy Framework.

4.2 **Fit for the Future** – The final documents from this piece of work contribute heavily to the services and people aspects of the Council’s Fit for the Future. This is because it underpins the core principles of ensuring that good governance arrangements are in place and that Councillors are held to account for their behaviour.

#### 5. **Budgetary Framework**

5.1 This report does not impact upon the budgetary framework or the budget of the Council.

#### 6. **Risks**

6.1 The main risks from the proposals at this stage are minimal. This is because the main proposal is bringing forward a proposal for consultation to ensure that every relevant party has had the opportunity to provide feedback on the proposal. The second part relates to a letter where the main risk to the Council is the continued approach by Central Government not to have a sanction of suspension for local Councillors and therefore enabling them not to be held responsible for their actions.

#### 7. **Alternative Option(s) considered**

7.1 While the revised arrangements and Code could be brought into effect from January 2015, it is not considered appropriate to have the revised Code in place for less than four months before the District Council and Parish/Town Council elections. This is because it would involve significant officer resources in providing training for Members who may cease to be in office from May. In addition, from January 2015 this will be an extremely busy time for both Officers and Councillors in preparation for the elections. That said the revised supporting documents could be brought into action from January 2015 to improve the level of service to the customer.

7.2 The Working Party did consider the potential for an appeals system to a Hearing Panel Decision but accepted the representation from WCC Legal Services that *"I would re-iterate my advice that an appeal process is not required. The Localism Act 2011 left it entirely for local councils to decide how they designed their procedures for dealing with complaint against councillors. It envisages councillors being judged by their peers at a local level. Essentially there is no higher level within a local authority than the judgement of other councillors."*

#### 8. **Background**

8.1 Following its meeting on 21 October 2013 the Standards Committee appointed a working Party consisting of Councillors Brookes, Cooke, Mrs Falp, Pratt, Mrs Syson and Wilkinson to review the Code of Conduct and associated documents and report back to Standards Committee.

8.2 The Working Party has met twice with further discussions via email and informally.

8.3 The Working Party, while revising the documents, focussed on the main concerns that had been passed to them. These were the ineffectiveness of the current regime because of the lack of sanctions available to the Standards Committee and the lack of ability to enforce sanctions such as an apology. This is also outlined as a concern within the Annual Governance Statement.

8.4 The Working Party are of the opinion that the Council should write to the Secretary of State for the Department of Communities and Local Government expressing the following concerns:

- The lack of a sanction of suspension has removed the teeth of the standards regime when dealing with serious matters that are not within the Disclosable Pecuniary Interest regime;
- This can, and in the case of this Council has, led to situations where Councillors have been found by their peers to have breached the Code of Conduct but have refused to accept the sanctions imposed by the Council which in our opinion has brought the whole standards regime into disrepute.
- The current sanctions available such as a public notice, as recognised in the statement from DCLG on 9 July 2014 regarding public notices, are ineffective in providing a deterrent to Members for their bad behaviour;
- That the sanction of suspension, for the most serious of cases, should be reintroduced for Local Government but only by resolution by Full Council on which at least half plus one member of the Council must vote for the suspension;
- The Council seeks guidance from DCLG on what it should do where under the current regime a Councillor refuses to apologise to a member of the public and officers for their actions where they have been found to be in breach of the Code.
- The Council explains why it does not feel it is acceptable for it to have to seek Political Party Intervention to put more serious sanctions on Councillors who have been found to breach the Code, i.e. suspension from the Political group and removal from committees;
- The Council asks for clarification as to why it is acceptable for Parliament to have the opportunity to suspend members and not Local Government referencing the Patrick Mercer Case.
- The Council seeks a set Code of Conduct for all elected representatives of Parliament through to Parish Council's to enable clarity for all on what is expected in terms of the behaviour of all elected representatives.

8.5 The agreed timeline for introduction of the revised documents and Code of Conduct is as follows:

- Standards Committee consider draft ideas 9 September 2014
- The draft proposals are then sent to All Parish and Town Councillors, Jane Pollard, Peter Oliver, all Warwick District Councillors for comments by 7 November 2014
- Working Party meet on the afternoon of 19 November 2014
- Goes to WDC Executive for support in December 2014
- Goes to Standards Committee on 16 December 2014
- Adopted by Council from 28 January 2015 to come into force from 11 May 2015
- Copies sent to all Parish & Town Councils asking them to adopt from 11 May 2015.

- 8.6 This report and associated documents have been considered by the Council's Legal Services Team. While a number of minor comments have been made in the report, there were two specific aspects for consideration by the Committee. These were:
- (1) The Committee should consider removing the requirement for the declaration of Gifts and Hospitality. This because while the requirements within the Code is fine there is no legislative requirement for this and it is rarely used;
  - (2) The Committee should consider the requirement for registering other interests as outlined in the suggested Code of Conduct because these are not required by law. In relationship to this the Committee may also want to consider the description of a relevant person of the other interests and if this should be narrower in line with the legislative requirements of Disclosable Pecuniary Interests;
  - (3) The Committee should not allow a matter to progress to a Hearing Panel if a complainant is not willing to accept an appropriate resolution from proposed by the Monitoring Officer if it has been accepted by the Councillor. This is because the process is about addressing the Councillors behaviour, not a compensation scheme for complainants.