

 Standards Committee January 2015		Agenda Item No. 4
Title	Code of Conduct and associated arrangements	
For further information about this report please contact	Graham Leach, Democratic Services Manager & Deputy Monitoring Officer 01926 456114 or graham.leach@warwickdc.gov.uk	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers	Localism Act 2012, first and second Consultation Responses, Minutes and Agendas of the Standards Committee.	

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

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service		
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)		
Consultation & Community Engagement		
All Warwick District Councillors, All Parish & Town Councils in Warwick District, Warwick District Independent Persons and WCC Legal Services have been consulted on the responses received have been considered by the Working Party.		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
The final recommendations will go to Council in February 2015 for adoption from 12 May 2015 and will also make recommendations to all Parish 7 Town Council's on this basis		

1. **Summary**

- 1.1 The report brings forward the final proposals from the Code of Conduct Working Party for revisions to the Code of Conduct and associated processes.

2. **Recommendation**

- 2.1 To recommend to Council that the revised Code of Conduct, Disclosable Pecuniary Interest Form and Gift and Hospitality Form, be adopted from 7 May 2015, as set out at Appendix A – Appendix 1 and Appendix B and Appendix D.
- 2.2 That the Standards Committee approve the revised procedures for handling complaints about the Conduct of Councillors;
- 2.3 To recommend to Council that the following responsibilities be amended within the remit of the committee

From

"ix. To Advise the Council about the effectiveness of its Constitution, governance arrangements and other matters relevant to assisting the authority with the Annual Governance Statement; including overseeing the Whistle blowing policy, Member/Officer Code of Conduct (when the matter relates to member conduct; the approval and monitoring of the Corporate Complaints Policy);"

To:

"ix To advise the Council on its Members Code of Conduct and Member/Officer Protocol"

- 2.4 To recommend to Council that the remit of the Finance & Audit Scrutiny Committee , under its responsibilities as the Council's Audit Committee, be made responsible for consideration of the Annual Governance Statement of this Council.
- 2.5 To recommend to Council that the Constitution be amended to include explicit reference that the Council is the Parent body of Committees and in very exceptional circumstances can determine matters normally determined by its Committees.
- 2.6 To recommend to Council the scheme of delegation be amended to read:
"The Deputy Chief Executive (AJ) & Monitoring Officer, **in consultation with the Chairman of the Standards Committee**, shall have authority to appoint the membership of Standards Sub-Committees (Hearing Panels)."
- 2.7 That officers notify all Parish and Town Councils of this decision and provide template report and appendices for them to use.
- 2.8 To recommend to Council the continuation of a Joint Standards Committee with all Parish and Town Council's within the District and the process for appointing the Parish and Town Council representatives to the Committee, as outlined at Appendix E.
- 2.9 The Committee considers the advice and guidance from the Council's Solicitor on any proposal for an appeals process as set out at Appendix F to the report and determines if it would like an appeal stage to be introduced.

3. Reasons for the Recommendation

- 3.1 Following the Standards Committee in September a second consultation on the proposed arrangements was undertaken. Responses to this consultation were received from:
Warwick District Councillors: Mrs Bromley, Dhillon, Mrs Falp, Mrs Gallagher and Illingworth.
Parish & Town Councils & Councillors: Councillor Mrs Gordon, Norton Lindsey Parish Council, Budbrooke Parish Council, Kenilworth Town Council, Whitnash Town Council and Leek Wootton & Guys Cliffe Parish Council.
- 3.2 In addition to the above, the Working Party also considered the response from the Department of Communities and Local Government and the Standards in Public Life Committee following the letter from Council to them about the current Standards Regime. They considered the views on these letters expressed by Councillor Mrs Bromley, Councillor Boad, Councillor Gill and Councillor Coker. They also reconsidered the views of Mr Tomkinson (Independent Person) that he had submitted as part of the original consultation.
- 3.3 Following consideration of these responses minor amendments were made to the proposals to ensure they were more consistent and easier to understand. The Working Party also asked for the potential for an appeals process to be reconsidered and the proposal along with the advice from the Councils Solicitor is set out at Appendix F. This is now a matter for the Committee to determine if it wishes to proceed. A summary of the issues raised and responses to them are set out in the background of the report.
- 3.4 The recommended change to the remit of the Committee follows consideration of the Annual Governance Statement this year where the Committee agreed that in future the Annual Governance Statement should go to Finance and Audit Committee for approval. Officers considered the wider aspects referred to in the Committee's remit and the remainder of these aspects are the responsibility of either; Executive, Employment Committee, Finance & Audit Committee or Council. Therefore, the amended remit enables greater clarity on responsibility of function.
- 3.5 There was significant concern, from all sides of the chamber, when the Council considered the Code of Conduct case regarding Councillor Dhillon. It was agreed by all parties that for the sake of clarity the recognition of Council as the parent body of all Committees should be included in the Constitution.
- 3.6 The Working Party were keen for officers to provide a template report, recommendations and appendices for each Parish and Town Council to consider to enable them to have a fully informed debate and discussion on the proposals. This would also reduce the burden of work required by the Clerk to the Councils.
- 3.7 The Working Party were pleased with the work of the Standards Committee and its ability for inclusiveness by being a Joint Committee and therefore allowing Parish and Town Council representatives to have a vote on matters and if needed form part of a Hearing Panel. It was on this basis that they brought forward the proposals for a Joint Committee, set out at Appendix E.
- 3.8 It should, however, be noted that if all Parish & Town Councils do not agree to be a member of the Joint Committee by the end of September 2015 then the

District Council will proceed with co-opting representatives of the Parish & Town Councils to the Committee. This will remove their ability to vote on decisions of the Committee or sit as voting members of Hearing Panels. This is because to ensure the Committee can act in confidence of a joint Committee the District Council needs to be able to evidence the agreement to a joint Committee through minutes of the associated Councils. In addition, the aim of a joint Committee is to ensure all are represented fairly and if some Councils do not wish to join, the District Council, feels to ensure clarity, it should only proceed with co-option to the Committee.

4. Policy Framework

- 4.1 **Policy Framework** – This report does not impact on the Council’s Policy Framework but does seek to amend and update the Council’s Constitution. The Committee should be mindful that there is an ongoing review of the Council’s Constitution which has seen an updated Employee Code of Conduct, a revised Council Procedure Rules, revision to the remit and arrangements for Housing Appeal review Panels, updated Code of Procurement Practice and a revised Member officer protocol (which is included on the agenda for this meeting). Work has also started on a revision to the Officer Scheme of Delegation. Combined these will bring a more robust constitution for the Council starting in May 2015.
- 4.2 **Fit for the Future** – The revised process aims to put in place a robust Code of Conduct which provides a platform for openness and transparency for Members conduct. In addition to this the revised procedures seek to reduce the cost of administering this scheme while improving the process for all parties to make it clearer to understand.
- 4.3 **Impact Assessments** – There are no significant policy changes contained within this report with the possible exception of the introduction of an appeals process. If the appeals process is agreed to proceed, an Equality Impact Assessment will be undertaken and unless there are significant issues within this, approved by the Monitoring Officer in consultation with the Chairman of both the Standards Committee and the Council. If there are issues raised by the appeals process these will be reported direct to Council, when it considers the final proposal.

5. Budgetary Framework

- 5.1 The report does not impact on the budgetary framework for the Council and does not impact on the budgets for this service.

6. Risks

- 6.1 The main risks from the proposals are the potential for Parish and Town Councils to adopt their own Code of Conduct because this could cause confusion for Councillors of more than a single authority where they would be required to abide by different, and potentially conflicting, Codes of Conduct at the same time. This would also cause confusion for the wider community.

7. Alternative Option(s) considered

- 7.1 The Council is required to have a Code of Conduct, and robust arrangements for handling Complaints about the Conduct of Councillors, including a Committee for considering these. Therefore options are limited but members could decide

to defer a decision on this matter until after the election or to amend the proposals. Officers would not recommend either of these approaches because the purpose of the review was to ensure that robust arrangements were in place for the new Council and these proposals are built on the outcome of consultation and with support of the Council Solicitor and Monitoring Officer.

- 7.2 The Committee should be mindful that the Parish and Town Councils could adopt a different Code of Conduct, if they so wished, but even if they did this any complaints about the conduct of members would be considered in the process defined by this Council.

8. Background

- 8.1 Following the end of Consultation the Working Party met on 21 November 2014. The meeting was attended by Councillors Cooke, Pratt and Wilkinson. Apologies for absence were received from Councillor Brookes, Mrs Falp and Syson.
- 8.2 The Working Party were generally disappointed with the level of response to these important documents and took this as either agreement to the proposals or general state of despair with the ability to enforce any serious sanctions.
- 8.2 The Working Party received a number of representations regarding the potential for an Appeal. While they were confident with their previous position, because they received a suggested procedure they asked for the Councils Solicitor to consider this. The proposed process and response from the Councils Solicitor is set out at appendix E to the report.
- 8.3 The working Party were asked if the Grievance procedure should be used by officers for Complaints about the conduct of Councillors, as technically they were employed by the Councillors. This has been checked and the grievance procedure can only be used in matters relating to officer line management.
- 8.4 It was suggested that the arrangements should be deferred to allow the new Council to consider this in May 2015. The Working Party felt it was best to provide the new Council with sound footings because there would be significant pressure on the new Council to look at other prominent projects early after the election. In addition to this, the new Council would need time to learn and understand their new roles. This could then delay the review further when Councillors have already expressed dissatisfaction at the current arrangements.
- 8.5 It was suggested that the Council should not have an Independent Person and that they should not be involved in decisions on Code of Conduct matters. The Working Party were mindful that it is a legal requirement to have an Independent Person and for them to be consulted at specific stages on complaints about Councillors.
- 8.6 The Working Party noted the request to have fixed membership Hearing Panels but remained content with the Monitoring Officer setting these because of the need to ensure each Panel is representative and neutral to the matter. That said, they did agree that these should be set in consultation with the Chairman of the Committee and should now be increased to five members (including at least one Parish/Town Council representative).
- 8.7 It was clear from the responses received that some Councillors did not know how to make a complaint about the conduct of an officer. Therefore, this will be

built into the training for any new Councillor. For the sake of clarity a complaint should be raised with the Head of Service, Deputy Chief Executive or Monitoring Officer.

- 8.8 The Working Party welcomed the fact that officers were to produce a new log of complaints that provides more detail about the complaint including the actions taken to try and resolve matters at an early stage.
- 8.9 The Working Party noted the concern of an individual regarding the potential for multiple complaints about an individual Councillor and how these should be handled. For example, if two complaints of different subject are made about a Councillor and these move to investigation should they be undertaken by the same investigator and should they be subject to a single investigation report or two separate reports. Alternatively, what should happen if multiple complaints are made about the same Councillor relating to the same matter. The Working Party were happy for the Monitoring Officer to use discretion on this taking into consideration public interest and natural justice. They also felt that the Monitoring Officer remained the best person to appoint an Investigator for a complaint because they would be able to determine their independence to each matter.
- 8.10 The Working Party were content overall that the emphasis was now on reducing cost within the process and felt it was not in the public interest to have Councillors considering cases to determine if they should proceed for investigation or then to a hearing as well as determining a hearing.
- 8.11 The Working Party were of the opinion that the consideration of complaints by the Monitoring Officer, in consultation with the Independent Person, provided a robust and appropriate consideration of a complaint to ensure that trivial complaints were not progressed through the system.
- 8.12 The Working Party were satisfied that natural justice is followed for the hearings process and that papers will always be considered if supplied when requested. If these are not supplied until the day of the hearing it will then be at the discretion of the panel as to if they are considered.
- 8.13 The Working Party recognised concerns regarding the requirement for Councillors to contribute to training costs and therefore decided an upper limit should be imposed on this of one months Members Allowances payment for District Councillors and a maximum of £100 for Parish and Town councillors.
- 8.14 The Working Party were reassured that to date the process for handling unreasonable or unreasonably persistent complaints had not been used. They also accepted that the Council needed to have this in place in case such a matter occurred.
- 8.15 The Working Party recognised the expectation of Councillors to be informed when there is a complaint about them. They also expected that Councillors would come and discuss the complaint informally with the Monitoring Officer without question. The Monitoring Officer will ensure that a copy of the complaint is disclosed to the Councillor once this meeting has been completed, so long as to do so may not impact on any potential investigation. However some information may be redacted to protect third party data, as set out within the data protection act.

- 8.16 The Working Party were assured that the arrangements for complaints handling is a matter for the Standards Committee, but that amendments to the code and its associated documents such as DPI form and Gifts is a matter for Council.
- 8.17 The Working Party is confident the work is robust and lawful and has been approved by WCC legal as advisors to this Council, therefore it did not need to be written, in the whole, by a Solicitor.