

SUBJECT:	Annual Review of the Code of Conduct and Complaints Procedure
REPORT OF:	Monitoring Officer
RESPONSIBLE OFFICER	Joanna Swift
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WARD/S AFFECTED	None

1. Purpose of Report

To consider if the code of conduct and complaints procedures adopted by the Council in accordance with the Localism Act in 2011, remain fit for purpose.

RECOMMENDATIONS

- 1. That the code of conduct be amended to clarify that a member who declares a personal interest is still entitled to speak and vote on the item of business.**
- 2. That arrangements for dealing with complaints be revised as set out in Appendix 3.**
- 3. That the revised assessment criteria at Appendix 3, Annex 3 be agreed**
- 4. That the proposed procedure for Hearing Committees at Appendix 3, Annexes 5 and 6 be agreed**

2. Reasons for Recommendations

It is good practise for the Council to review its adopted policies and procedures on a regular basis to ensure they remain relevant and effective. This annual review has been brought forward following comments made by the Local Government Ombudsman in a recent decision.

3. Content of Report

- 3.1 As members are aware the Council has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct amongst its elected and co-opted members, to adopt a code governing member conduct and to have arrangements in place for dealing with any complaints that members may have breached the code of conduct. Any complaints that town or parish councillors have breached their council's code of conduct are covered by the District Council's arrangements.
- 3.2 Under the Act and accompanying statutory regulations members must disclose any pecuniary interests (DPI's) held by themselves or their spouse/partners in items of Council business. Failure to disclose a DPI is a criminal offence.

THE CODE OF CONDUCT

- 3.3 The Act gives the Council discretion over the contents of their code of conduct provided that it accords with the following 7 principles of conduct in public life:-
- selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- 3.4 The Council's current code of conduct was adopted on 15 August 2012 and is attached at Appendix 1 for reference. It is based on a lighter-touch set of general obligations than the previous national model code but retains the requirement for members to disclose non-pecuniary personal and prejudicial interests, in addition to the new statutory DPI's. This was considered vital in view of the Council's regulatory role in determining planning and licencing applications. South Bucks District Council has adopted the same form of code. It is considered that the obligations in the code of conduct are generally understood by Members and that declarations of interest are being made appropriately. However, following 2 recent complaints about the declaration of personal interests under paragraph 6 of the code the monitoring officer is recommending that an additional sentence is added to this paragraph to make it clear that members who declare a personal remain entitled to speak and vote on the item of business concerned. The additional wording proposed is shown highlighted in red at paragraph 6 of the code at Appendix 1.

THE COMPLAINTS PROCEDURE

- 3.5 The Act also gives the Council discretion on the arrangements it adopts for dealing with complaints. These arrangements must however include the appointment of at least one independent person whose views are to be sought and taken into account, before the Council makes a decision on an allegation that it has decided to investigate. The independent person's view may also be sought by the authority at other stages in the investigation and by subject members.
- 3.8 The Council's current Complaints Procedure was adopted in 2012 and is combined with a complaint form. This adopts a 3 stage process:-
1. The complaint is sent to the subject councillor member who has an opportunity respond. If the complainant is satisfied with the councillor's explanation or proposed remedy, no further action is taken. If the complainant remains dissatisfied the complaint proceeds to Stage 2.
 2. The monitoring officer assesses whether the complaint should be referred for investigation having regard to the referral criteria, in consultation with the chairman of this Committee and an independent person. If a complaints merits investigation it

will proceed to Stage 3. If the monitoring officer decides not to refer the complaint for investigation no further action is taken and no appeal is available.

3. An investigation is carried out and the investigators report is referred to a Hearing Sub-Committee or, in certain cases, this Committee for consideration. The Independent Person's view must be taken into account when deciding what action to take.

A copy of the current procedure is attached at Appendix 2 for ease of reference

3.10 The monitoring officer has reviewed the current complaints procedure in the light of best practise elsewhere and is recommending the following revisions as set out in the draft document at Appendix 3:-

- a. Separating out details of the arrangements adopted from the complaints form. A model complaints form including tick box options is appended at Annex 1 rather than being incorporated into the explanation of the procedure. The model form will be available to download from the Council's website and the monitoring officer will also look into making it available to complete on-line.
- b. The proposed revisions retain the current 3 stage process but also include more detail about how a complaint will be investigated at Stage 3, including the appointment of an investigating officer and the investigation procedure itself. They also explain the procedure that will normally be adopted at meetings of the Hearing Sub-Committee. Whilst the proposed revisions increase the length of the document, the benefit is that all the relevant information for the complainant and subject member are contained in one reference document.
- c. The revised procedure also strengthens the provisions for seeking local resolution of complaints following an investigation. Paragraph 7.1 makes clear, for example, that if an apology is considered an appropriate resolution and the subject member gives such an apology, that no further action would be necessary.

3.11 Members will recall considering a draft Protocol with Thames Valley Police for dealing with DPI complaints at their last meeting and a formal response is still awaited from the Economic Crime Unit. The protocol as finally agreed will also be annexed to the proposed arrangements.

4. Consultation

Not applicable at this stage

5. Options

The Committee has the option of proposing other changes to the code of conduct and complaints procedures which could be the subject of wider consultation with members before formal consideration by Full Council and/or alternative revisions to the complaints procedure.

6. Corporate Implications

Financial - None
Legal – As set out in the report
Risks issues – None
Equalities - None

7. Links to Council Policy Objectives

Whilst there is no direct link to the Council’s main objectives the Council has a statutory obligation to adopt a code of conduct and complaints procedure. The effective monitoring of complaints is matter of good governance and is important in preserving the confidence of local communities

8. Next Steps

If agreed by the Committee the proposed revisions to the Code of Conduct at Appendix 1 and to the complaints procedure at Appendix 3 would be recommended to Full Council for adoption.

Background Papers:	None except those referred to in the report
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