

SUBJECT:	Review of the Code of Conduct and Complaints Procedure
REPORT OF:	Head of Legal and Democratic Services

1. Purpose of Report

This report considers whether the code of conduct and complaints procedures adopted by the Council under the new standards framework in 2012 remain fit for purpose.

2. Links to Council Policy Objectives

Whilst there are no direct links to the Council's main policy objectives, the effective monitoring of complaints is matter of good governance and is important in preserving the confidence of local communities.

3. Background

3.1 On 1 July 2012 a new standards framework was introduced by the Localism Act 2011. This requires the Council 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 complaints procedure.

3.2 The Localism Act and accompanying statutory regulations require members to 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3.3 The previous national model code of conduct was repealed by the Localism Act and the Council therefore has discretion on the content of the new code of conduct provided that it accords with the following 7 principles of conduct in public life:-

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

3.4 The Council adopted a new code of conduct on 24 July 2012 which is attached at Appendix 1 for reference. This was based on a lighter-touch set of general obligations than the previous national model code but continued 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 role in determining planning and licencing applications. The same code was adopted by Chiltern and Aylesbury Vale District Councils. Members will note from the complaints monitoring report elsewhere on the agenda that there have been no formal complaints about the conduct of district councillors since the new code was adopted. It is considered that declarations of interest are being made appropriately by members under the Code.

3.5 Guidance on personal interests was issued by the DCLG in September 2012 and revised in September 2013 to give basic practical information to members about how to be open and transparent in relation to their interests. A copy is attached at Appendix 2. It is not considered that this guidance requires any changes to the Council's code. However, some

additional guidance on what constitutes a “close association” for the purposes of declaring a personal interest under the code and advice for dual-hatted members on declaring personal and prejudicial interests may be helpful. Subject to the outcome of this Committee’s review, further guidance will be prepared for consideration by this Committee in readiness for member training after the 2015 district elections.

THE COMPLAINTS PROCEDURE

- 3.6 The statutory instruments regulating the handling of complaints were repealed by the Localism Act together with the independent body that dealt with more serious complaints, the Standards Board for England. The Council therefore has discretion on the arrangements it adopts for dealing with complaints. However, the Act provides that these arrangements must 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.
- 3.7 The Council has adopted the Complaints Procedure attached at Appendix 3 and appointed 2 independent persons who are consulted on proposed actions. Complaints are handled in 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 complaint 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.
- 3.8 This complaints procedure was considered by the previous Standards Committee prior to its adoption and a simpler and more transparent process for subject members was favoured. The same arrangements have been adopted by Chiltern and Aylesbury Vale District Councils. The monitoring officer has not received any formal complaints under the procedure about district councillors. There has been 1 complaint about a parish councillor which proceeded to Stage 3 and the investigator found that there had been a failure to declare an interest under the parish council’s code of conduct. Members will recall that the investigator’s report was considered by this committee in December 2013. Having taken the views of the Council’s Independent Person into account, the Committee referred the report to the relevant parish council to decide what action to take.

4. Proposal/Discussion

- 4.1 The Committee is invited to consider whether the code of conduct remains fit for purpose having regard to experience since its adoption in July 2012. With regard to the arrangements for dealing with complaints the Committee is asked to consider whether the current 3 stage approach achieves the necessary balance of fairness in the public

interest between the complainant and subject member and otherwise generally whether the procedure remains fit for purpose.

5. Resources, Risk and Other Implications

Financial - None

Legal - As set out in the report

Risks issues - None

Equalities - None

6. Recommendation

The Committee is invited to note the information in this report and consider any necessary actions arising

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Background Papers:	None except those referred to in the report