

OVERVIEW AND REVIEW OF CURRENT STANDARDS ARRANGEMENTS FOR ELECTED MEMBERS

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Wards affected: All

PROPOSED DECISION

No decision is required; the Committee is asked to consider and note this report.

Corporate Implications

1. The Localism Act 2011 contains the current legislative arrangements for elected Member standards of conduct within local authorities. This superseded and repealed the previous legislation contained in the Local Government Act 2000, and enacted measures including the abolition of Standards for England (earlier known as the Standards Board) and the existing regulatory framework, and the removal of the obligation for members to agree to adhere to a model Code applicable across the country. The obligation to have a statutory Standards Committee and for Members to provide an undertaking to comply with a Code were also repealed, along with the sanctions of disqualification and suspension.
2. Nonetheless, there remains a duty on Councils under Sections 27 and 28 of the Localism Act 2011 to promote and maintain high standards of conduct by elected and co-opted members when acting in that capacity, to adopt a Code of Conduct which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, and to have arrangements in place for the investigation of allegations and for the making of decisions on allegations. How this is achieved in each Council now involves a degree of greater local choice than was available before 2012, so long as the basic parameters of the legislation are met. The Council's current arrangements as outlined in this report have been adopted and subsequently modified in response to the requirements of the Localism Act 2011. The Act also required that the Council must appoint one or more "Independent Persons", whose role is both to act as consultee before the Council takes a decision on any allegation it has decided to investigate, and also to be consulted by the Council at any other appropriate stage. The Council has appointed two such persons. Their role is advisory only.

Executive Summary

3. This report provides a re-cap upon the current Standards arrangements for elected members within Wycombe District Council and for Town and Parish councils in the District.
4. The purpose of this report is to provide an explanation of the current legislative and local situation in respect of Member conduct and arrangements for dealing with complaints including the role of the Standards Committee.

Background and Issues

5. The Localism Act 2011 made substantial changes to the legislative arrangements for Member conduct and complaints which were previously in place. Prior to the Localism Act, arrangements for member conduct and the handling of complaints was contained in the Local Government Act 2000, which itself had been amended to implement a national Model Code of Conduct in 2007.
6. Consequent upon the Localism Act coming into force, all authorities in England needed to review and reconsider their standards arrangements. This had a significant effect on the the upper tier authorities, who as well as having to review their codes of conduct also had to review their arrangements for handling complaints; however, all Parish and Town Councils were also required to review and consider their own Codes.
7. Wycombe District Council's current arrangements are published as part of its Constitution, in Part 5 of that document. The Council chose to retain a form of Code of Conduct for its Members which in some ways is based upon the former Model Code, although briefer.
8. The Council has also chosen to retain a voluntary Standards Committee, with a general role to promote high standards of conduct, and also to deal with Hearings under the complaints arrangements. Hearings, as and when they arise, will be dealt with by a sub-committee of the Standards Committee of up to 5 members. The Standards Committee no longer has independent members, who under the former regime were full members of the committee, one of whom had to chair the Committee, but it is attended by the two "Independent Persons" whom the Council has appointed under the Localism Act, as well as town/parish representatives.
9. In short, the WDC Code of Conduct sets out obligations in respect of general conduct, Disclosable Pecuniary Interests, Other Interests, and Gifts & Hospitality. Town and Parish Councils have adopted their own Codes of Conduct, which may not be identical to the Wycombe District Council Code, but must still adhere to the same basic principles of conduct as set out in the Localism Act.
10. The current regulatory framework is also set out in Part 5 of the Constitution. It contains contact details for complainants wishing to raise a complaint, and is formed of three stages. Prior to the first stage, there is a power for the

Monitoring Officer to dismiss a complaint at the outset, if certain basic criteria are not met; for example, if the events took place over 6 months ago, or if there is no apparent evidence that the Code has been breached. If a complaint is not dismissed at this point, it moves on to Stage One.

11. At Stage One, the Subject Member receives a copy of the complaint and is invited to comment upon it. The Complainant is then shown the response, and if satisfied with it, the complaint goes no further.
12. If the Complainant remains dissatisfied, the Monitoring Officer, in consultation with one of the Independent Persons, decides whether the matter should be referred for investigation. The procedure contains detailed Referral Criteria which have to be taken into account in making this decision.
13. If a decision is made not to investigate, the Monitoring Officer is able to seek to resolve the complaint informally, without the need for a formal investigation. This might, for example, involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. If a decision is made to formally investigate, an external Investigating Officer will be appointed.
14. After investigation, the Investigating Officer reaches a conclusion. If there is found to be no evidence of breach, that is the end of the matter. If evidence of breach is found, the Monitoring Officer can either refer the matter to a Hearings Panel for hearing, or can, in consultation with an Independent Person, seek local resolution.
15. With regard to sanctions, the Localism Act provides no power to impose sanctions (such as apology or training), nor to disqualify or suspend Councillors, nor to impose sanctions on Parish or Town Councillors. Possible sanctions comprise, for example, censure or reprimand (which may lead to adverse publicity), recommendation of removal from Cabinet, Committee or outside appointments, or bar from Council offices to reduce the possibility of disruption to the administration of the Council's affairs, but these cannot go so far as to prevent a Councillor from performing their duties as an elected member.

Conclusions

16. The Council has arrangements in place which comply with the Localism Act 2011. This report reminds the Committee of those arrangements.

Next Steps

17. The Standards Committee will continue to be responsible for undertaking the functions set out in its Terms of Reference.

Background Papers

None.