

Gloucester City Council

Meeting:	Standards Committee	Date:	19 June 2012
	Audit & Governance Committee		25 June 2012
	Council		19 July 2012
Subject:	Standards Arrangements under the Localism Act 2011		
Report Of:	Monitoring Officer Report		
Wards Affected:	All		
Key Decision:	Yes/No	Budget/Policy Framework:	Yes/No
Contact Officer:	Sue Mullins – Monitoring Officer		
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Appendices:	1. LGA model Code		
	2. DCLG illustrative text for Code		
	3. Draft Code recommended by Monitoring Officer		
	4. Draft arrangements for dealing with Standards complaints		
	5. Proposed changes to Terms of Reference for Audit and Governance Committee		
	6. Draft recruitment Pack for Independent Persons		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider a draft Code of Conduct, draft arrangements for dealing with Code of Conduct complaints and various other changes required to meet the Council's standards obligations under the Localism Act 2011.

2.0 Recommendations

- 2.1 Standards Committee is asked to **RECOMMEND**, subject to any Member comments, that

- (1) **The Draft Code at Appendix 3 be approved and adopted as Gloucester City Council's Code of Conduct;**
- (2) **The draft arrangements for dealing with standards complaints at Appendix 4 be approved and adopted;**
- (3) **The arrangements for the recruitment of 1 Independent Person and 2 Reserve Independent Persons and future work be noted.**

- 2.2 Audit and Governance Committee is asked to **RECOMMEND**, subject to any Member comments, that

- (1) **The Draft Code at Appendix 3 be approved and adopted as Gloucester City Council's Code of Conduct;**

- (2) The draft arrangements for dealing with standards complaints at Appendix 4 be approved and adopted;
- (3) The proposed changes to the Terms of Reference for Audit and Governance Committee be approved; and
- (4) The arrangements for the recruitment of 1 Independent Person and 2 Reserve Independent Persons and future work be noted.

2.2 Council is asked to **RESOLVE**, subject to any Member comments, that

- (1) The Draft Code at Appendix 3 be approved and adopted as Gloucester City Council's Code of Conduct;
- (2) The draft arrangements for dealing with standards complaints at Appendix 4 be approved and adopted;
- (3) The proposed changes to the Terms of Reference for Audit and Governance Committee at Appendix 5 be approved;
- (4) [name] be appointed to be the Council's Independent Person and that [name] and [name] be appointed to be the Council's Reserve Independent Persons; and
- (5) The future work required be noted.

3.0 Background and Key Issues

3.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is anticipated to be 1 July 2012.

3.2 As of 31 May 2012, draft regulations in relation to Member interests have not been formally issued and there is concern amongst the local government community that there is very little time for authorities to adopt their codes, make their standards arrangements, prepare their register of interests and make their standing orders before 1 July 2012 in order for them to be operational by then. Clarity is being sought from the Department for Communities and Local Government on what provision is being made for continuation of the existing Code of Conduct pending adoption by authorities of their new codes.

3.3 Council considered a detailed report on the steps required to implement the changes at its meeting on 22 March 2012. This report contains processes and documents proposed to the Council for adoption to enable implementation of the new regime.

3.4 The Code of Conduct

At its meeting on 22 March 2012, the Council decided that it wished to consider a draft Code equating to Paragraphs 3 to 7 of the current Code of Conduct and that the Code should require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests (DPIs). As mentioned above, the Regulations in relation to Disclosable Pecuniary Interests have not yet been published, but Council has previously delegated authority to the Monitoring Officer, after consultation with the Chair of Standards Committee and the Leader, to add to the draft Code provisions which he/she considers to be appropriate for the registration and disclosure of interests other than DPIs.

3.5 It was originally envisaged that a revised ‘model’ code would be produced for authorities to adopt. However, there are now two versions of model codes – one produced by the Local Government Association (attached at Appendix 1) and one produced by the Department for Communities and Local Government (attached at Appendix 2). It is your Monitoring Officer’s view that both these versions are so widely worded that they could lead to less clarity for Members and the public and generate more complaints.

3.6 A further draft code has been produced, based largely on the existing code and a draft produced by the Association of Council Secretaries and Solicitors (ACSeS) and SOLACE. This draft Code is attached at Appendix 3. It is the Monitoring Officer’s view that this version provides greater clarity for Members and for the public and it is therefore recommended for approval and adoption, subject to any comments Members may have.

3.7 Arrangements for dealing with Misconduct Complaints

The Act requires that the Council adopts “arrangements” for dealing with complaints of breach of Code of Conduct both by City Council Members and by Parish Council Members, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of Conduct. Draft arrangements for dealing with complaints are set out at Appendix 4, including the proposed complaint form, criteria for undertaking investigations and hearings procedure.

3.8 The transfer of responsibility from the Standards Committee to the Audit and Governance Committee has necessitated changes to the Terms of Reference for the Audit and Governance Committee and the creation of Terms of Reference for the proposed Hearings Panel. The proposed changes are set out at Appendix 5.

3.9 Independent Person(s)

The “arrangements” adopted by Council must include provision for the appointment by the Council of at least one Independent Person and the Council has resolved to appoint 1 Independent Person and 2 Reserve Independent Persons. The advertising and recruitment process will begin shortly. A Sub-Committee of the Audit and Governance Committee will be shortlisting and interviewing candidates with the aim of recommending appointments to Council on 19 July 2012.

3.10 Draft Regulations covering transitional issues are expected to allow existing Independent Members to be appointed as Independent Persons. The draft recruitment pack for the Independent Persons shown at Appendix 6 allows for this.

4.0 Alternative Options Considered

4.1 Alternative options for the Code of Conduct are contained in this report. The Council has a wide discretion as to the arrangements it makes for dealing with alleged breaches of its Code of Conduct, provided that the arrangements comply with Human Rights legislation, the rules of natural justice and administrative law. The

Council cannot choose not to make arrangements for dealing with Code of Conduct complaints without breaching the Localism Act 2011.

5.0 Reasons for Recommendations

- 5.1 Under the Localism Act 2011, the Council is required to adopt a Code of Conduct and to make arrangements for dealing with breaches of the Code under the Code for both itself and Parish Councils.

6.0 Future Work and Conclusions

- 6.1 There remains a lot do to in order to fully implement the standards regime envisaged by the Localism Act 2011. The remuneration levels for the Independent Person need to be set and arrangements are being made for this to happen. The detailed Regulations on Disclosable Pecuniary Interests have yet to be formally published and this impacts on preparation of the Register maintained by the Monitoring Officer, the preparation of Standing Orders for requiring Members to withdraw where they have DPis and, more importantly, on training and guidance for Members. This is especially important as breach of the legislation on interests is a criminal offence. Your Monitoring Officer will provide as much up-to-date information as is available to each meeting at which this report is considered and produce further draft documents for consideration by Members where possible.
- 6.2 Discussions remain to be had with the Parish Council as to how the new system can best operate between the City and Parish Council. The Parish Council will be responsible for adopting its own Code but the City Council has responsibility for dealing with complaints about breaches. There will also be a need to support training of Parish Councillors on their obligations under their adopted Code.

7.0 Financial Implications

- 7.1 The removal of the statutory Standards Committee and the requirement to have a proportionate number of Independent Members is likely to result in a small saving to the Council, some of which will be offset by remuneration of the 'Independent Person' required under the Localism Act.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 Under the Localism Act 2011, the Council is required to adopt a Code of Conduct and to make arrangements for dealing with breaches of the Code under the Code for both itself and Parish Councils. It is not yet clear whether or not the Council's existing Code of Conduct will continue to apply, pending adoption of a new Code. From a governance point of view, it is important that the Council's Constitution complies with the legislation and makes appropriate provision for the handling of member conduct issues.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

9.1 Depending on transitional arrangements, there is a risk that the Council will have no applicable Code of Conduct in place between 1 and 19 July 2012. The more significant risk is that there will be insufficient time to train Members on their obligations under the Code and in relation to interests before the legislation takes effect. The Monitoring Officer will endeavour to provide as much support and guidance to Members as possible over this transitional period.

10.0 People Impact Assessment (PIA):

10.1 Changes to the Council's Standards arrangements are required by law and the Government will have considered the impact during the drafting of the legislation.

10.2 Primarily, the changes will affect elected Members who will be bound by the new Code of Conduct and be subject to the new process for dealing with complaints. The proposed Code is based on the model Code affording the greatest clarity and does not prevent any individual from seeking to become a Councillor. Members of the public can have confidence in the proposed arrangements as the Code is designed to eliminate prohibited behaviour.

10.3 Recruitment of the Independent Person will follow the Council's agreed process.

10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

11.1 There are no community safety implications arising out of this report.

Sustainability

11.2 There are no sustainability implications arising out of this report.

Staffing & Trade Union

11.3 There are no staffing and trade union implications arising out of this report.

Background Documents: Localism Act 2011.