

**Standards Committee : 18 July 2013**

**Title of report: Review of the New Arrangements for Member Conduct**

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>N/A</b>
<b>Is it in the Council's Forward Plan?</b>	<b>N/A</b>
<b>Is it eligible for "call in" by Scrutiny?</b>	<b>N/A</b>
<b>Cabinet member portfolio</b>	<b>Corporate</b>

**Electoral wards affected: All**  
**Ward councillors consulted: N/a**

**Public or private: Public**

## **1. Purpose of Report**

1.1.1 To review the arrangements which have been in place for dealing with complaints about member conduct. The arrangements have been in place in their current form since 24 October 2012. The issues covered are:

- 1.1.2 The code of conduct
- 1.1.3 Dispensations
- 1.1.4 Training for members and officers
- 1.1.5 Arrangements for the assessment of complaints

## **2. Key Points**

2.1 The Code of Conduct

2.1.1 The Localism Act 2011 requires the Council's code of conduct, when viewed as a whole, to be consistent with the following principles— selflessness; integrity, objectivity, accountability, openness, honesty and leadership. These are known as the Nolan Principles or the Seven Principles of Public Life. In January the Committee on Standards in Public Life published "*Standards matter - A*

*review of best practice in promoting good behaviour in public life*". This review included revised descriptions of the Seven Principles of Public Life. These revised descriptions are set out in Annex 1. At Annex 2 is an extract from the Kirklees Council code of conduct which sets out the current descriptions.

2.1.2 The Council's code of conduct sets out the Seven Principles of the Public Life at section 3 with descriptions. It is recommended that the Code of Conduct be amended so as to replace those descriptions with the revised descriptions from the Committee on Standards in Public Life.

2.1.3 During the course of training sessions on the code of conduct and the new arrangements members have raised concerns that the current wording of the code of conduct makes it difficult for members to engage with voluntary organisations in their ward without creating "other interests" which may then bar them from decision making. Members' views are sought on whether the current code of conduct is too restrictive in this respect.

## 2.2 Dispensations

2.2.1 Under the Localism Act members with disclosable pecuniary interests may apply for dispensations to permit them to speak and/or vote on matters in which they have such interests. The Council resolved on 24 October 2012 to delegate the responsibility for dealing with applications for dispensations to the Monitoring Officer. The grounds upon which dispensations can be granted include circumstances where:

2.2.1.1 the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

2.2.1.2 the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

2.2.1.3 granting the dispensation is in the interests of persons living in the authority's area,

2.2.1.4 without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive,

2.2.1.5 it is otherwise appropriate to grant a dispensation.

2.2.2 To date the Monitoring Officer has granted 62 dispensations in relation to the setting of the Council Tax and the Budget for 2013/14 to members who had interests in property or land in Kirklees. These dispensations allowed the members concerned to speak and vote on those matters. A further 10 dispensations have been granted to members who have disclosable pecuniary interests arising from their membership of outside bodies which pay them allowances. Some members, who sit on more than one outside body, have more than one dispensation. These dispensations allow the members to speak but not vote on matters in which they have such interests. In March 2013 the Department for Communities and Local Government revised its guidance on interests to make it clear that members who are Council Tax payers do not require dispensations to take part in the business of setting the Council Tax or precepts or local arrangements for Council Tax support.

2.2.3 Members views are sought on whether they are content for applications for dispensations to continue to be the responsibility of the Council's Monitoring Officer or whether such applications should be dealt with by the Standards Committee.

2.2.4 Members disclosable pecuniary interest forms are published on the individual member pages on the Kirklees Council website. Where a member has a dispensation it seems sensible for that dispensation to be published together with the interest form on the website. Not to publish a dispensation could give the impression that a member is wrongly participating in decision making when in fact they are permitted to do so. Members' views are sought on whether dispensation decisions should be published on the website.

## 2.3 Training for Members and Officers

2.3.1 All elected members were invited to training sessions called "Code of Conduct – Essential Information for Councillors" held at Huddersfield Town Hall on 13 December 2012 and 29 April 2013 and at Dewsbury Town Hall on 12 December 30 April 2013. An additional session for the Liberal Democrat Group members was held on 18 March 2013 at Crown Court Buildings, Huddersfield. 34 out of 69 Kirklees councillors have attended these sessions.

2.3.2 Training is being arranged for members of the Health and Well-Being Board who are neither elected members of the Council or officers but who are covered by the Council's Code of Conduct.

2.3.3 Training has also been provided to the Council's governance officers, area committee officers, planning and licensing lawyers and planning officers.

2.3.4 Members views are sought upon whether attendance at standards training sessions should be compulsory for all elected and co-opted members with voting rights.

## 2.4 Assessment of Complaints

2.4.1 There is a separate report to Standards Committee on the complaints about member conduct dealt with under the new arrangements. To date no complaints have been referred for investigation.

2.4.2 The present arrangement is for the Monitoring Officer to make the decision upon what action to take when assessing a complaint and to consult the Group Business Managers and one of the Independent Persons when doing so. The options available include informal resolution, for example seeking an apology from the member who is the subject of the complaint or attempts at conciliation, advice to the member, formal or informal investigation and no further action.

2.4.3 The issue is whether assessment decisions should continue to be made by the Monitoring Officer or whether the Standards Committee should take on the responsibility, in consultation with one of the Independent Persons. Experience of operating the current system suggests that the Monitoring Officer's combined roles of liaising with potential complainants, consulting with subject members and reporting back to complainants, and making assessment decisions on the same complaints can conflict. There may be some benefit in separating out these roles so that the assessment decision is not made by people who have gathered in the information upon which the assessment is to be made. There is no provision for review of an assessment decision in the new regime and complainants can and do go to the Local Government Ombudsman. Members' views are sought on whether assessment decisions should continue to be made by the Monitoring Officer in consultation with the Group Business Managers and one of the Independent Persons or should be made the responsibility of the

Standards Committee, in consultation with one of the Independent Persons.

### **3 Implications for the Council**

- 3.1 The promotion and maintenance of high standards of conduct among councillors and voting co-opted members is an important part of maintaining public confidence in the council and its members.

### **4 Consultees and their opinions**

N/a

### **5 Officer recommendations and reasons**

5.1 It is recommended that:

5.1.1 The Standards Committee recommend to full Council that the Council's code of conduct be amended so as to replace the current descriptions of the Seven Principles of Public Life with the revised descriptions published by the Committee on Standards in Public Life as set out in Annex 1 to this report.

5.2 The Committee's views are sought on the following issues.

5.2.1 Whether the current code of conduct is unduly restrictive in regulating the conduct of members who are involved in outside bodies such as voluntary organisations.

5.2.2 Whether applications for dispensations should continue to be dealt with by the Monitoring Officer or should be the responsibility of the Standards Committee, or a sub-committee of the Standards Committee.

5.2.3 Whether dispensation decisions should be published on the Council's website.

5.2.4 Whether attendance at standards training sessions should be compulsory for all elected and co-opted members with voting rights.

5.2.5 Whether assessment decisions should continue to be made by the Monitoring Officer in consultation with Group Business Managers and one of the Independent Persons or should be the responsibility of the Standards Committee, in consultation with one of the Independent Persons.

5.2.6 Whether the new arrangements are working satisfactorily.

### **6 Cabinet portfolio holder recommendation**

N/a

## **7 Next steps**

- 7.1 Any recommendations of the Standards Committee will be considered by the Corporate Governance and Audit Committee before any report is taken to full Council.

## **8 Contact officer and relevant papers**

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### Background Papers:

Dispensation decision records.

Committee on Standards in Public Life - "*Standards matter - A review of best practice in promoting good behaviour in public life*" at

[http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards\\_Matter.pdf](http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf)

"Code of Conduct – Essential Information for Councillors" – Training materials and records

## ANNEX 1 – THE SEVEN PRINCIPLES OF PUBLIC LIFE

<b>Principle</b>	<b>Revised description</b>
<i>Preamble</i>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, Non-Departmental Public Bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit

these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## **ANNEX 2 – EXTRACT FROM THE KIRKLEES CODE OF CONDUCT**

### **3 General Principles**

Your conduct as a member should be consistent with the following principles

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#### **3.1 Selflessness**

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person. In particular members should never improperly use their position in order to gain financial or other material benefits for themselves, family, friends or other third parties. Members must, when using or authorising the use by others of the resources of the authority act in accordance with the authority's reasonable requirements.

#### **3.2 Honesty and Integrity**

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. In particular members should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties and should never allow their personal interests in the authority's business to influence their judgement of the public interest. Members should not do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority.

#### **3.3 Objectivity**

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits. All formal decisions should be made upon the basis of the following principles –

- 3.3.1 having due regard to all relevant considerations and disregarding all irrelevant factors;
- 3.3.2 proportionality (i.e. the action must be proportionate to the desired outcome);
- 3.3.3 lawfulness, financial propriety and prudence;
- 3.3.4 all due consultation;
- 3.3.5 the taking of professional advice from officers; and
- 3.3.6 respect for human rights

#### **3.4 Accountability**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### 3.5 Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### 3.6 Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence. In particular members should treat others with respect and not act in a manner likely to bring the office of member or the authority into disrepute.