

APPENDIX P.1

WAVERLEY BOROUGH COUNCIL
STANDARDS PANEL - 25 JUNE 2013
EXECUTIVE – 2 JULY 2013
COUNCIL – 16 JULY 2013

Title:

REVIEW OF THE NEW STANDARDS FRAMEWORK

[Portfolio Holder: Cllr Robert Knowles]

[Wards Affected: All]

Summary and purpose:

The Localism Act 2011 made fundamental changes to the ethical standards regime for Members. It abolished the detailed prescription set up under the Local Government Act 2000 and gave the Council much more discretion in setting a more appropriate and simplified standards regime. The Council adopted a new Code of Conduct at its meeting in July 2012 and agreed to review its operation.

How this report relates to the Council's Corporate Priorities:

Confidence in high standards of conduct is a key part of understanding and responding to our residents' needs.

Financial Implications:

There are no budget implications, and the operation of the new Code has been accommodated within existing budgets.

Legal Implications:

The Council is under a range of duties under the Localism Act and operating the new Code and arrangements are a key part of discharging these duties. The Council can choose to amend its Code or arrangements when it considers appropriate.

1. Introduction

- 1.1 The Localism Act gave Councils an explicit duty to promote and maintain high standards of Member conduct. It abolished the statutory model Code of Conduct and replaced it with an obligation on the Council to adopt a Code dealing with the high standard of conduct that is expected of Members when acting in their official capacity. The Code had to include such provision as the Council considers appropriate for the registration and disclosure of pecuniary and other interests. It set up a new category of disclosable pecuniary interests which involve very strong sanctions, and made failure to disclose this type of interest a criminal offence.

- 1.2 The Government did not prescribe what local Codes must contain, other than stipulating that they must be consistent with the following principles of holding public office first set out by Lord Nolan's Committee on Standards in Public Life in the 1990s: -
- selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- 1.3 The Code adopted by the Council in July 2012 is attached as Annexe 1. The Code applies to both elected councillors and co-opted members when they act in their official capacity (paragraph 1(1)). The seven principles of public life are given prominence in paragraph 1(3).
- 1.4 The Council agreed to include some general obligations of good conduct transposed from the template code provided by the Minister for Local Government, these included: -
- treating other persons with respect;
 - not breaching confidences except in limited circumstances; and
 - only using the resources of the Council for proper purposes.
- 1.5 The Code cautions against the acceptance of excessive gifts or hospitality but there was no requirement to register individual items. Council agreed to continue to require registration of gifts or hospitality if the estimated value exceeded £25, to help maintain public confidence in Waverley's high standards.
- 1.6 The Code made provision for the registration and disclosure of pecuniary interests. The annexe to the Code sets out the definition of these. Council also agreed it was appropriate to make provision for a limited number of non-pecuniary interests to be registered. These covered membership of or occupation of a position of general control or management of the following bodies: -
- bodies to which the Member has been nominated by the Council;
 - bodies exercising functions of a public nature;
 - bodies directed to charitable purposes; and
 - bodies whose principal purpose includes the influence of public opinion
- 1.8 Paragraph 7 of the draft Code takes account of the new legislative position on allegations of bias or predetermination .

2. Independent Persons

- 2.1 The Council appointed two Independent Persons whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, or at any other stage. These are Vivienne

Cameron and Tony Allenby. The Member against which an allegation has been made can also consult them. They have been consulted on three initial investigations.

- 2.2 They have also been asked for general views on the operation of the Code. One of the Persons, Tony Allenby, has suggested the Council might look again at the wording of the Code relating to non-pecuniary interests such as Club or Society membership, and whether this is necessary particularly for ordinary members. Vivienne Cameron has suggested that the Independent Persons might become more involved overall rather than just being consulted in writing.

3. Arrangements for Handling Allegations

- 3.1 The intention here was to provide for arrangements that are substantially simpler and clearer than the previous procedures. Council adopted the procedures set out in Annexe 2.

4. Allowances

- 5.1 When Council adopted the new Scheme of Members' Allowances it agreed to allocate an allowance to the Chairman of the new Standards Panel, of the current level of £1,761. This represented a saving of £1,200 on the Members' Allowances budget.

5. Surrey Collaboration

- 5.1 Officers worked through the Surrey Secretaries Group to aim to have broadly consistent Codes of Conduct across Surrey. This has largely been achieved, though the essence of the Localism Act approach is that Councils should be free to adopt arrangements that reflect their particular circumstances.

6. Dispensations where Members are not able to discuss an item because of interests

- 6.1 Council agreed that in future these be dealt by the Monitoring Officer in the following circumstances –
- (i) That so many Members of the decision-making body have disclosable pecuniary interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
 - (ii) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
 - (iii) That the authority considers that the dispensation is in the interests of persons living in the authority's area;
 - (iv) That, without a dispensation, no member of the Executive would be able to participate on this matter; or

- (v) That the Council considers that it is otherwise appropriate to grant a dispensation. This will inevitably be fact specific.

6.2 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

7. Review of the new Code

7.1 All Councillors have been asked for any views on the operation of the Code, and three have responded and their comments set out in Annexe 3. Two of the Members do not feel it appropriate to have a full review at this stage apart from looking again at the level of hospitality specified.

7.2 One Councillor has given detailed comments relating to a particular Hearing which started under the previous Code. The aim of the new arrangements was to meet several of the criticism raised, and to date there have been no Hearings of the type the Councillor refers to under the new Code.

7.3 Under the new arrangements, the Monitoring Officer is the first contact for all complaints. The arrangements anticipate an initial review, and if necessary a consultation with the Independent Person. If the complaint is trivial or a breach of the Code is not specified, the process may end there with the complainant being given reasons. In the last ten months two complaints have been dealt with by the Monitoring Officer responding, and in three further cases a more detailed initial investigation has been carried out by the Monitoring Officer, the Councillors the subject of the complaint interviewed and the views of the Independent Persons sought on the action proposed. These views have proved very helpful and constructive, and given the process the element of Independent scrutiny that is important in maintaining public confidence in the new Arrangements. This early stage provides for the possibility of informal resolution without a formal investigation.

7.4 If a complaint alleged the commission of a criminal offence relating to a declarable pecuniary interest, the police would need to be informed. However, no such complaints have been received.

7.5 If the Monitoring Officer feels an investigation is appropriate, the investigative procedure is set out in paragraph 5 of the note. It has not been necessary so far to use this procedure.

7.6 One issue that has been highlighted by an investigation into a complaint under the previous Code is the need for treating investigation reports as confidential. The Panel may wish to strengthen and clarify the Code and arrangements to meet this. Officers suggest in response to comments by the Independent Persons, that they could become more involved in consultations with the Monitoring Officer and Chairman. Members may feel that retaining disclosure of Local Club and Society membership as non-pecuniary interests is still important in retaining community confidence in transparency.

- 7.7 The procedure for a Panel hearing is set out in paragraph 7.2 of the note. A summary of possible actions, if a breach of the Code is established, is provided in paragraph 8.
- 7.8 The Panel may wish, in the light of Member comments at paragraph 7.1 to the Code and arrangements:
- Increase the hospitality limit to £50.
 - Make it clear in the arrangements that Panel Members cannot represent Members or contact other Panel Members about a complaint.
 - Include a statement that all Parties should work together to complete the process within reasonable timescales.
 - Strengthen the Code and arrangements to make it clear that investigation reports are confidential and that any breach of this would be treated as a breach of the Code.

8. Waverley Constitution

- 8.1 The current constitution reflects the previous standards regime. A suggested update to the Standards Panel and Monitoring Officer sections are attached as Annexe 4.

9. Training

- 9.1 The Monitoring Officer and Deputy arranged three training sessions for all Waverley Members on the new framework. Training sessions were also organised for all Town and Parish Councils, and training given on two occasions to a Town Council following a Hearings Panel decision on a complaint begun under the previous arrangements.

Recommendation

The recommendations from the meeting of the Standards Panel on 25 June 2013 will be circulated separately – To Follow.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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