

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Monitoring Officer

to Standards Committee

on
28th February 2017

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Monitoring Officer's Report

Part 1 Public Agenda Item

1. Purpose of Report

To provide the Standards Committee with an update on ethical issues and the need to promote and maintain high standards of conduct for elected and co-opted Members.

2. Recommendation

That the report be noted.

3. Background

3.1 Standards Regime

(a) On 19th July 2012 the Council adopted a new standards regime for Councillors and co-opted members pursuant to the provisions of the Localism Act 2011.

(b) The new standards regime:

- Requires Councils to promote and maintain high standards of conduct for its elected and co-opted Members.
- Requires Councils to adopt their own Members' Code of Conduct, consistent with a new set of principles and the provisions of the Localism Act.
- Defines "Disclosable Pecuniary Interests" which must be registered and declared by Members – and imposes criminal sanctions for non-compliance.

- Abolished the previous National Code, the Standards Board for England and the associated legislation.
 - Requires the compilation and publication on the internet of the Register of Members' Interests.
 - Requires Councils to put in place arrangements for dealing with breaches of the Code: However there are very limited sanctions if such a breach is found, essentially naming and shaming and possibly withdrawal of facilities in some cases.
 - Requires Councils to appoint at least one "Independent Person" to assist with dealing with complaints. Southend has appointed 2 Independent Persons.
 - Applies the same principles to parish and town councils, except that the principal council will operate the arrangements in respect of the Code.
- (c) The Committee on Standards in Public Life is a body which advises the Prime Minister on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders, including monitoring the impact of changes to the local government standards regime by the Localism Act 2011.

The Committee published its Annual Report for 2015/16 in July 2016 (see item 6 on the agenda for this meeting) and attention is drawn in particular to the section on Local Government Standards on pages 21 and 22. This presents a relatively positive position, although some difficulties and challenges are identified, particularly the effectiveness of the sanctions regime and some calls for a National Code of Conduct. The Annual Report also refers to evidence to suggest that "the role of the independent person is generally well received" and I would certainly like to acknowledge the contribution made by Southend's two Independent Persons.

3.2 Members' Code of Conduct

The key document agreed by Council on the 19th July 2012 was the new Members' Code of Conduct "**the Code**". (Leigh on Sea Town Council adopted the same Code on the 12th September 2012).

The Code is contained in Part 5(a) of the Constitution and a copy is attached at **Appendix 1**.

Following a recommendation from the Standards Committee at its meeting on 15th January 2015, the Council amended Appendix 1 to the Code to reflect the revised descriptions of the General Principles of Public Life ("the Nolan Principles") made by the Committee on Standards in Public Life in its report "Standards Matter" in January 2013.

The Code covers 4 matters:

- Some general obligations about Member conduct
- Rules on registration of interests
- Rules on declarations of interest
- Rules on gifts and hospitality

The Code replaced a National Code which had existed previously. However to ensure some common standards across Essex, the new Code (and the associated documents for dealing with complaints) was developed by the Public Law Partnership, which is a partnership of local authority legal departments across Essex and beyond: This was at the request of the Essex Chief Executives and Leaders Group.

The Public Law Partnership has kept the Code under review, but based on experience to-date no necessary changes have been identified.

Furthermore, no legislative changes have required the Code to be amended. The Department for Communities and Local Government (DCLG) did issue revised guidance in September 2013 (**Appendix 2**) advising Members to register personal trade union interests, but this obligation was already included in the Council's Code.

While the Code will continue to be kept under review, no changes are recommended at the present time.

There are 2 other documents contained within the Council's Constitution which provide further guidance to Members on ethical conduct:

- Probity in Planning - Guidance for Members and Officers (Part 5(b)); and
- Protocol on Member/Officer Relations (Part 5(d)).

3.3 Registration of Members' Interests

A public Register is kept by the Monitoring Officer of interests which Members and co-opted members are obliged to register pursuant to paragraph 11 of the Code and S.29 Localism Act 2011. The registration requirements include any gifts or hospitality accepted with a value in excess of £50.

All new Members must complete the Register. Furthermore at the start of each municipal year all existing Members are asked to confirm in writing that their registered interests are still correct, or to amend them as required. The same applies to co-opted members.

The Register is currently up to date and is open to public inspection on the Council's website as required by S.29 (5) of the Localism Act 2011

The Register of interests of Members of Leigh on Sea Town Council is published on the Town Council's website.

3.4 Declarations of Interests at meetings

The Code contains specific requirements for Members and co-opted members to declare interests at meetings of the Council, Cabinet, committees, sub-committees etc.

There is an item at the start of every meeting for the declaration of interests. Members and co-opted members also complete a slip so that the declarations are accurately recorded in the minutes. More sophisticated arrangements operate at full Council Meetings.

3.5 Training for Members

(a) Training for Members and co-opted members is provided in a number of ways:

- Shortly after the new Code was introduced a Training Session was held for all Members.
- Planning Training sessions for the Development Control Committee at the start of each municipal year generally include a section on the Code, given the frequency of interest issues arising at the Committee.
- New Member induction always includes a one-to-one session with the Monitoring Officer, where the ethical framework and the provisions of the Code are examined in detail. Other items considered include the Constitution and the Council's decision making processes. A copy of the letter sent to new Members in connection with the Code and associated issues is attached at **Appendix 3**.
- Ad hoc advice is provided to Members individually and collectively on the Code – see 3.6 below.

(b) The Committee is asked for ideas on what additional training it would like to see for all Members in 2017/18.

3.6 Ad hoc advice from the Monitoring Officer

The Monitoring Officer regularly gives advice to individual Members, including co-opted members, about the obligations in the Code and particularly in connection with the registration and declaration of interests.

Often such advice is given outside meetings, but when necessary it will be provided at the meeting.

In addition the Monitoring Officer will provide advice to a wider group of Members when this is required. For example:

- Members of the Development Control Committee re interests and also pre-determination in respect of a specific application.
- All Councillors in respect of Part 2 reports and the need to maintain confidentiality.

3.7 Complaints

Since the new Standards regime was introduced in July 2012 there have been a small number of complaints alleging that a Member has breached the Code.

However following consultation with the Independent Person, as required by the relevant procedures in Part 4(i) of the Constitution, none of these complaints passed the threshold to merit further investigation.

3.8 Members requests for dispensations

The Standards Committee has power to grant dispensations to permit a councillor to participate in Council business despite having a disqualifying interest.

The Standards Committee has previously granted such dispensations to councillors who sit on the Board of South Essex Homes.

Further applications for dispensations from current councillors on the Board of South Essex Homes are on the agenda for this meeting (agenda item 4).

3.9 Promoting and maintaining high standards of conduct for elected and co-opted Members

The previous sections of this report set out the various steps which have already been taken, or put in place, to promote and maintain high standards of conduct for elected and co-opted Members.

Training is of course an on-going matter as is monitoring the Code and compliance with it.

However the views of the Committee on further action which might be taken would be welcome.

Members will recall that at the Standards Committee meeting held on 15th January 2015 two recommendations were made to promote and maintain high standards of conduct (minute 560 refers):

- (a) The Monitoring Officer should send an advice note to all Members (including co-opted members) and Members of Leigh Town Council about blogging.

Letters were duly sent on 23 January 2015 (copy attached at **Appendix 4**) and subsequently to all new Members.

- (b) A system should be introduced to monitor levels of attendance by individual councillors at meetings of the Council, Cabinet, committees and working parties to which they are appointed. The system should show the number of times a Member should have attended and the number of actual attendances and the details should be published on the Council's website. The system should include the ability to record any special reasons for non-attendance, such as sickness or clash of meetings.

The Mod-gov committee management system now records the attendance of Members at meetings and details are published on the Council's website. Actual attendances are recorded, as well as the number of times the Member should have attended and a Member can indicate when non-attendance is the result of a clash of meetings.

The statistics available on the website are as follows;

- Attendance by Councillor
- Attendance of all Councillors
- Attendance by Committee
- Councillor non-attendance.

3.10 Other ethical matters

- (a) On 25th February 2016 the Council agreed a new Employee Code of Conduct, replacing the outdated Code in Part 5(c) of the Council's Constitution. At the same time six new HR policies were adopted to support the new Code.
- (b) The Constitution has recently been subject to a major update, in order to reflect significant changes to the Council's senior management structures and the introduction of a revised Local Code of Governance in Part 5(e) of the Constitution. This Local Code of Governance sets out the Council's governance framework and the systems of internal control.

4. Corporate Implications

4.1 Contribution to Council's Vision & Corporate Priorities

Excellent Council

4.2 Financial Implications

None

4.3 Legal Implications

As set in the report

4.4 People Implications

None

4.5 Property Implications

None

4.6 Consultation

None

4.7 Equalities and Diversity Implications

None

4.8 Risk Assessment

There are no significant risk issues associated with this report.

4.9 Value for Money

No significant issues.

4.10 Community Safety Implications

None

4.11 Environmental Impact

None

5. Background Papers

None

6. Appendices

Appendix 1 – Members' Code of Conduct

Appendix 2 – The Department for Communities and Local Government (DCLG) revised guidance to Councillors "Openness and Transparency on personal interests" issued in September 2013.

Appendix 3 - Letter sent to new Members in connection with the Code

Appendix 4 - Advice note sent to all Members (including co-opted members) and Members of Leigh Town Council about blogging.

