

CHESHIRE EAST COUNCIL

REPORT TO: STANDARDS COMMITTEE

Date of Meeting: 14 May 2012
Report of: Borough Solicitor / Monitoring Officer
Subject/Title: Standards Regime under the Localism Act

1.0 Report Summary

- 1.1 The report identifies a number of recommendations which Council is asked to consider in relation to new ethical governance arrangements under the Localism Act 2011.

2.0 Decision Requested

- 2.1 That the Standards Committee recommends to Council that :-
1. The Council's existing model code of conduct for elected members and the procedure for the investigation of complaints under the code remain in force on an interim basis until the next meeting of the Council in July 2012, when further recommendations will be brought forward for the adoption of a new code of conduct.
 2. That the Audit and Governance Committee establish on an ad hoc basis a sub-committee with delegated powers to deal with standards issues with effect from the next meeting of the Council in July 2012.
 3. That the terms of Reference at Appendix (i) be adopted in respect of the Audit and Governance sub-committee.
 4. That the Monitoring Officer be given delegated authority to undertake a recruitment process for up to three Independent Persons as required under section 28(7) of the Localism Act 2011 once details of the transitional provisions have been received.
 5. That if necessary in order to comply with statutory timescales the Council's urgency sub-committee shall approve the provisional appointment of the Independent Persons subject to formal ratification by Full Council at the July meeting.
 6. Members note that work is ongoing to draft a new standard code of conduct to be adopted across the Cheshire Authorities which will include Town and Parish Councils and the Fire Authority.

3.0 Reasons for Recommendations

- 3.1 To comply with the provisions of the Localism Act 2011 which requires the Council to adopt a Code of Conduct and appropriate procedures to deal with any breaches with effect from 1 July 2012. The appointment of Independent Person(s) and the adoption of the new Code requires approval by Full Council.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 The Act places a statutory duty upon the Council to promote and maintain high standards of conduct amongst its own elected members and any co-opted members. Strong ethical governance is key critical to the Corporate Governance of the Authority and supports the Council's decision making processes across the organisation as a whole.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 Final costs of implementation of the new legislation will depend on the local arrangements approved by the Council. However it should be noted that the new regime is intended to be cheaper and more effective, accordingly it is anticipated that costs will be met from existing resources.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Localism Act 2011 was enacted in November 2011 but its implementation is being phased. The provisions in relation to the replacement of the current Standards regime are due to be brought into force with effect from 1 July 2012. In the meantime regulations are awaited which will set out matters of details and in particular will define the new 'pecuniary interests' which in future members will be expected to register. It is also anticipated that Ministers are minded to make transitional provision for a Council to appoint a person as an Independent Person who has held the post of chairman or as a member of the Council's Standards Committee within the last 5 years.

9.0 Risk Management

- 9.1 It is important for the corporate governance of the Authority that the Council has the highest standards of conduct from its elected members and that the public has confidence that any complaints procedure is robust and transparent. If the Council fails to adopt a code of conduct which is fit for purpose or to establish an appropriate procedure for complaints to be effectively dealt with then there are risks to the Council from a reputational management viewpoint and also to the integrity of the Councils corporate governance and decision making process. Equally the Council must ensure frivolous or tit for tat complaints are discouraged if the process is not to fail into disrepute.

10.0 Background

- 10.1 The Standards Committee has been meeting as an Issues and Ideas Working Group to discuss proposals for revised ethical governance arrangements in accordance with the Localism Act 2011 which need to be adopted and in place by 1 July 2012.
- 10.2 The Regulations which underpin much of the new procedure have not yet been published and it has not been possible at this time for the Committee to reach a conclusion on some of the issues under consideration e.g. the adoption of a Code of Conduct. Notwithstanding this, matters need to be progressed pending publication of the Regulations.
- 10.3 With this in mind, the Issues and Ideas Working Group has been asked to consider the recommendations which were submitted to the Standards Committee at its meeting on 26 March 2012 and make recommendations where possible on the matters under consideration. A copy of the report is appended.
- 10.4 It is hoped to avoid the necessity of convening a special Council meeting prior to the date for implementation of 1 July by recommending that the existing code of conduct and procedure for investigation of any complaints remains in place until the next Full Council meeting on 19 July 2012.
- 10.5 In the meantime it is recommended that the Council approves that the Audit and Governance Committee establishes an ad hoc sub-committee to deal with complaints once any new code is adopted.
- 10.6 The regulations are not yet available in relation to any transitional provisions for existing independent members to stand as the new Independent Person under the Act. However as soon as these are available a recruitment process must be undertaken and delegated authority is sought for the Monitoring Officer to undertake the necessary procedure. The appointment of Independent Persons must be approved by the majority of members. In order to try to avoid the necessity for a

special Council meeting it is recommended that the Council's urgency sub-committee approves the provisional appointment to comply with any statutory deadline of 1 July 2012 but that this is subject to formal ratification by Council at its meeting on 19 July 2012.

- 10.7 Members subsequently need to approve a new code of conduct and procedure for investigation. Members are asked to note that work is ongoing to draft a standard code of conduct to be adopted across the Cheshire Authorities to include both Town and Parish Councils and the Fire Authority. This will be brought to a future meeting for member's approval.

Appendix (i)

Audit and Governance Standards sub-committee (Draft Terms of Reference)

The sub-committee comprising of # members is responsible for:-

- Promoting high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity)
- Advising the Council on the adoption or revision of the Codes of Conduct for Members and Officers
- Ensuring that Members receive advice and training as appropriate on the Members' Code of Conduct
- Receiving and determining whether to refer for investigation, or other appropriate action, any written complaints regarding alleged misconduct and breach of the Code of Conduct by any Borough Councillor or Town or Parish Council Member
- Consideration of the written report of the External Investigator in relation to a complaint that a Borough Council or Parish Council Member has broken the Code of Conduct and the determination of any appropriate action, in consultation with the Independent Person
- Granting dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted member to participate in a meeting of the authority.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Elwood
Designation: Borough Solicitor
Tel No: 01270 685882
Email: caroline.elwood@cheshireeast.gov.uk