

COUNCIL	AGENDA ITEM 16(a)
11 JULY 2012	PUBLIC REPORT

LOCALISM ACT 2011 – MEMBERS' COMPLAINTS PROCEDURE

R E C O M M E N D A T I O N S
FROM : Solicitor to the Council
<p>That Council:</p> <ol style="list-style-type: none"> (1) Approves the Code of Conduct (annex A); (2) Approves the arrangements for receipt, investigation and consideration of complaints against councilors (annex B) (3) Approves the terms of reference for the Audit committee dealing with complaints against members (Annex C) (4) Agrees that seats on the Audit Committee be exempt from the political balance requirements of Section 15 of the Local Government and Housing Act 1989 to allow the Liberal Democrat group a seat on the committee (revised committee of 8 to comprise of 4 Conservative, 2 Independents, 1 Labour and 1 Liberal Democrat) (5) Agrees the Monitoring Officer can grant dispensations to members to speak at meetings where they have a disclosable pecuniary interest (6) Agrees that any dispensation to take part in the debate and/or vote on any matter in which the member has a disclosable pecuniary interest can be granted by the Audit Committee (7) Approves an annual retention fee should to paid to the independent person and their deputy as set out at paragraph 6 to this report; (8) Authorises the Monitoring Officer to make any consequential amendments to the Constitution to reflect this new complaints process (9) Offers a vote of thanks to the former independent and parish members of the Standards Committee for the work they have undertaken

1. PURPOSE AND REASON FOR REPORT

- 1.1 This report follows on from the report considered at Council on the 18 April 2012 to prepare for the introduction of a new member complaints system under the Localism Act 2011.
- 1.2 Standards for England, the regulatory body, was abolished in January 2012 and the Standards Committee of this Council came to an end on the 30 June 2012.
- 1.3 The purpose of this report is to outline discussions with the Group Leaders since the previous Council meeting with the intention of agreeing a new member complaints system for Peterborough City Council under the Localism Act 2012.

2. THE CODE OF CONDUCT & PROCEDURES

- 2.1 The proposed Code of Conduct and the arrangements for dealing with complaints are attached at annexes A & B.
- 2.2 This new code of conduct reflects the intention of the Group Leaders to adopt a Code that has been developed jointly across the Cambridgeshire authorities. To a great extent this new Code reflects the wording of the former national Code regarding the levels of conduct expected of elected members. It therefore provides members with some familiarity of their duties in a period of transition.
- 2.3 Regulations outlining the 'disclosable pecuniary interests', which must be included in the Code, were released on 8 June 2012. Given the relatively short time therefore in which to put together the final version of the new Code and reflecting the intentions of the Group Leaders that if, given sufficient time, they would have developed a different Code, the Group Leaders also proposed that there should be a review of the new complaints system within 12 months of this report with any proposed changes to the Code and procedures recommended to Council.

3. DECLARING INTERESTS

- 3.1 Members will recall that it was outlined in the earlier report that a new category of 'disclosable pecuniary interests' was to be introduced by Regulations. Those interests are now set out in the Code annexed to this report. Members will note that this 'new' list of interests largely reflects the categories of personal interests in the old Code.
- 3.2 Members who have disclosable pecuniary interests will be required to register them with the Monitoring Officer and declare them at meetings. There will still be dispensations for sensitive interests where members may be subject to violence or intimidation as a result of disclosure.
- 3.3 The Monitoring Officer will shortly be issuing a form outlining the interests which must be declared so that she can create a public register of members' interests. This register will be published on the Council's website (in the same way as the current register is).
- 3.4. Members are reminded that the failure to declare an interest now carries with it a potential for criminal prosecution. Given that there has been no opportunity for training, further guidance on declaring interests will be provided by the Monitoring Officer e.g. checklists for meetings, with training will be provided at the next available opportunity.
- 3.5 A member with a disclosable pecuniary interest must:
- Disclose the interest at the meeting if it is not on the register;
 - Notify the Monitoring Officer that it should be included in the register;
 - Not participate in any discussion on that matter at a meeting; and
 - Not to participate in any vote on that matter.
- 3.6 Group Leaders have decided that members do not have to leave the room if they have a disclosable interest as they do under the old system (although as noted in 3.4 above they cannot participate in the meeting unless they have received a dispensation).

4. DISPENSATIONS

- 4.1 The Regulations permit dispensations to be granted to members to allow them to speak, debate and vote on a matter in which they have a disclosable pecuniary interest. It is for the Council to decide how these dispensations are to be given, if at all.

- 4.2 It is proposed that the Monitoring Officer be delegated the authority to grant a dispensation to any member who wishes to speak on a matter in which they have a disclosable pecuniary interest. A dispensation must be requested in writing in advance of the meeting.
- 4.3 Under the Act dispensations can also be granted to participate in the debate and to vote on a matter in which a member has a disclosable pecuniary interest. It is proposed that any member seeking such a dispensation must apply to the Audit Committee for approval.

5. DEALING WITH COMPLAINTS

- 5.1 The Council has already resolved that the Audit Committee shall hear any member complaints. It will only be necessary for the Audit Committee to consider such complaints following an investigation as the Monitoring Officer will now decide when to refer complaints for investigation.
- 5.2 For the first year of this system, the Group Leaders have agreed that the Audit Committee may also assess complaints before they are referred for investigation if the Monitoring Officer considers that a referral to the Committee is necessary. This is a 'failsafe' option rather than the default position and shall only be exercised in exceptional circumstances where the Monitoring Officer deems it necessary. This function should be subject to the review which is proposed to be undertaken over the next 12 months.
- 5.3 Following the appointment to committees at annual council in accordance with the political balance rules, the Audit Committee has no member of the Liberal Democrat group appointed to it. In order to ensure the greatest level of fairness in the new complaints process members are invited to consider whether the political balance arrangements ought to be overridden to allow one liberal democrat member to be appointed to the Audit Committee. In order for this resolution to be effective no member of the Council may vote against this proposal (although members may abstain from voting).
- 5.4 The primary function of the Audit Committee, in relation to this process, will be to hear complaints following investigation. In order to operate effectively it is anticipated that the Committee will delegate the hearing and assessment process to a sub-committee of Audit (effectively a hearings panel) and the terms of reference attached at annex C reflect this approach.

6. INDEPENDENT PERSONS

- 6.1 Although the Regulations permitted the existing independent members of the Standards Committee to be appointed as the independent person until March 2013, the Group Leaders considered that it would be preferable to have a clean break from the old system by appointing new independent persons. The recruitment process for an independent person and deputy has begun.
- 6.2 This Councils across Cambridgeshire have tried to agree parity in the payment of the independent person and Council are asked to approve an annual payment of £1000 per annum to the Independent Person and £500 for the role of Deputy. This is a saving on the current allowances paid to the independent members.
- 6.3 The independent persons are not paid a members allowance. The payment is a retention fee as the independent persons will not be co-opted members of the Council. This means that a clause must also be included in the agreement with the Independent Person that they are also subject to the new Code of Conduct and must declare any disclosable pecuniary interests.
- 6.4 In recognition of the work undertaken by the independent members of the former Standards Committee the Council would like to offer them a vote of thanks for their commitment to maintaining high standards of conduct at Peterborough City Council.

7. CONSULTATION

- 7.1 Following the resolution of Council in April Group Leaders have been consulted on the proposed changes to the member complaints system

8. REASONS FOR RECOMMENDATIONS

- 8.1 These recommendations are made as part of the statutory requirements of the Localism Act 2011.

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 Any alternative options have been considered during this report. The Council is required to abide by the provisions of the Localism Act 2011.

10. IMPLICATIONS

- 10.1 There are no financial or legal implications, other than those contained within the body of the report.

11. BACKGROUND DOCUMENTS

- 11.1 Localism Act 2011 and associated Regulations