

---

**MEMBER STANDARDS REVIEW**

---

**Responsible Cabinet Member - Councillor Stephen Harker,  
Efficiency and Resources Portfolio**

**Responsible Officer – Ada Burns, Chief Executive**

---

**SUMMARY REPORT**

**Purpose of Report**

1. The purpose of this is to ask Council to approve changes to the Code of Conduct, the way that standards complaints and a number of other changes.

**Summary**

2. The replacement code of conduct that was adopted by the Council in July 2012 and the changes made to the complaints handling process (to comply with the Localism Act 2011), were intended to be reviewed after a period of operating under those arrangements.
3. A review has been undertaken and a number of proposals for change are set out in this report. The changes to the code of conduct that are being proposed simplify the current code and also pick up on some issues that have been identified from the codes drafted by other authorities. The proposals in respect of complaint handling will result in savings and efficiencies in the way that member complaints are dealt with, while still retaining an appropriate degree of external input and transparency.
4. The Standards Committee has considered the proposals and supports them. Parish councils were also consulted in respect of parish council complaints handling. Further details are set out in the report.

**Recommendation**

5. That Members agree the following changes :
  - (a) To adopt the new Code of Conduct, as set out in Appendix 1, to take effect from 1 May 2014.
  - (b) To discontinue the Standards Committee from 30 April 2014.

- (c) To constitute a new Committee from 1 May 2014, with the function of hearing complaints against members that are referred to it by the Monitoring Officer. The Committee, will be known as the 'Member Standards Hearing Committee' and shall have a membership of 5 members and 2 co-opted members (serving parish council members) and a quorum of 3.
- (d) That in the first instance the existing Borough Council members of the Standards Committee be appointed to the Member Standards Hearing Committee and that the two existing parish council members be appointed as co-opted members to hear parish Council complaints.
- (e) To adopt 'Arrangements for dealing with complaints against Members', set out at Appendix 2, with effect from 1 May 2014.
- (f) That the Audit Committee is given additional responsibility for ethical values as part of its remit and that a review of member conduct is reported to Council annually.
- (g) That Members thank Mike Airey, Independent Chair of the Standards Committee for his work and long service on the Committee and Frances Hayes the Vice Chari and other independent member of the Standards Committee.
- (h) That the Assistant Director (Chief Executive) make any further consequential changes or amendments to the constitution relating to member standards and the role of the Audit Committee that are not specifically addressed in this report.

## **Reasons**

- 6. The recommendations are supported by the following reasons:
  - (a) To enable the Council to comply with the Localism Act 2011.
  - (b) To enable the Council to have an effective and efficient system of internal control to promote the good conduct of members in the Darlington area and to deal with complaints made against members.

**Ada Burns**  
**Chief Executive**

Luke Swinhoe: Extension 2055

## **Background papers**

The Localism Act 2011

S17 Crime and Disorder	There are no implications for Crime and Disorder
Health and Well Being	There are no implications for Health and Wellbeing
Carbon Impact	There are no specific issues in relation to carbon impact.
Diversity	There are no specific issues in relation to diversity
Wards Affected	All
Groups Affected	All
Budget and Policy Framework	The report does not propose amendments to the Council's budget and policy framework.
Key Decision	This is not an executive decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	The ethical agenda and the promotion of trust and confidence in the organisation support all of the objectives of the Community Strategy in so far as they facilitate public involvement in decision making. This is specifically addressed in the national indicator NI 4.
Efficiency	The abolition of the Standards Committee will make some financial saving on parish, independent member, and committee servicing costs. Streamlined complaints handling proposals will reduce some work.

## MAIN REPORT

### Information and Analysis

#### Background

7. Members will recall that a revised Code of Conduct and consequential changes to the system for dealing with complaints against members were approved by Council in May 2012 in order to comply with the Localism Act 2011 changes.
8. The main changes introduced by the Localism Act were:
  - (a) the Standards Board for England was abolished.
  - (b) Local authorities were no longer required to have a standards committee, but would continue to be under duty to promote and maintain high standards of conduct by members and co-opted members.
  - (c) The national model code of conduct was scrapped. In its place local authorities were required to adopt a replacement code of conduct. This code must be consistent with prescribed 'Nolan' principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership)<sup>1</sup>. The code must include obligations relating to registration and disclosure of pecuniary and non-pecuniary interests. Other content of the code is a matter of local choice.
  - (d) Monitoring Officers are required to maintain a register of member's interests (to include both Borough and parish council members).
  - (e) A new summary offence was created for members who, without reasonable excuse, fail to register a financial or other interest, or fail to disclose particular interests before taking part in local authority business. The offence is punishable by fine and or disqualification for up to 5 years.
  - (f) A local complaints function must be in place to deal with allegations about of breaches of the code of conduct (including from parish councils).
  - (g) Local authorities are required to appoint at least one 'independent person' to play a role in decisions made about complaints against members.

#### The 2012 arrangements

9. Council met in on 10 July 2012 and decided to :
  - (a) Adopt a revised code of conduct.
  - (b) Continue to have a Standards Committee, with the role of promoting and maintaining high standards of conduct by members.

---

<sup>1</sup> The Nolan Principles' were set out in the 1995 report of the Committee on Standards in Public Life, which was established by John Major following complaints of unethical conduct by politicians ('cash for questions')

- (c) Confirm the appointment of Joanne Kidd as the 'independent person'.
- (d) Make consequential amendments to the procedural arrangements for dealing with member complaints.

## Code of Conduct

- 10. In the lead up to statutory deadline for the adoption of the replacement code of conduct there were difficulties both in terms of lack of timely clarification of the definition of pecuniary interests from government and also the lack of agreement in the Local Government Association (LGA), who had been working on drafting a new model code of conduct as to the way in which the code should be drafted. There was also different 'light touch' code drafted by the Department for Communities and Local Government.
- 11. In the event and in order to be able to take a replacement Code of Conduct to Council when it met on 10 May 2012 the Standards Committee decided that the current Code will be retained so far as the general obligations (set out in Part 1 of the Code) and that Part 2 of the Code (which deals with interests) should be revised to reflect the changes to interests. This was the version that was adopted by Council when in met on 10 May 2012.

## Further review

- 12. It was always the intention to look again at the 2012 Code of Conduct and to review the system for dealing with member complaints. This would be assisted by experience gained from other arrangements being operated by other councils. It is now an opportune time to look again at the Code.
- 13. A review of codes of member conduct adopted by other authorities indicates that there are a variety of codes of conduct with variations in style and content. There is no standard or universal approach. This is perhaps unsurprising given the freedom that has been allowed to authorities in the drawing up of the replacement code of conduct.
- 14. The majority of Codes of Conduct in this region follow to some extent the template Code from the Local Government Association. This was not a complete code and only dealt with the principles. There are a variety of styles so far as the content of the code relating to interests. Some authorities have retained most or much of the pre 2012 Code, which other authorities have opted for reduced obligations and nearer to the statutory minimum (for instance some authorities have even dispensed with the requirement of 'treating others with respect').
- 15. Upon analysis, the Code that was adopted by Darlington Borough Council in July 2012 stands up fairly well. With the benefit of further consideration, a number of changes have been made to simplify and clarify the Code. The redrafted Code has been considered and approved by the Standards Committee. This is set out in **Appendix 1** with the amended parts clearly shown in track changes. Hopefully these changes will be reasonably self-explanatory. It is recommended that Council adopts this revised Code of Conduct (the track changes will be removed in the final form, of course)

## **The Assessment of Complaints**

16. The current model that is operated in Darlington is an evolution from the pre Localism Act model. The Standards Committee was retained and has continued to deal with the initial assessment of a complaint and the final hearing function. The main change since 2012 is the input into this process from the Independent Person (a requirement of the Localism Act).
17. One of the advantages in retaining the role of the Standards Committee during the time that the Localism Act changes were being considered was that we had a system that was already established and working that with some slight changes could be adapted to incorporate the role of the Independent Person.
18. What is being suggested is that the initial assessment of a complaint should be moved from the Standards Committee and this role should be discharged by the Monitoring Officer. This is the model that has been adopted by a number of Councils in this region. Only Redcar and Cleveland Borough Council and Darlington Borough Council have kept the former system in place.
19. The advantage of this model is that it would allow for a quicker initial assessment of complaints, a reduction in bureaucracy and some cost saving. This is likely to be of benefit in moving forward more quickly complaints that need to be investigated and dealing with complaints that are lacking in merit. The disadvantage is that it reduces the level of participation in the assessment process.
20. While it is not a requirement at the assessment stage that the Independent Person should be involved, if the assessment role is given to the Monitoring Officer the views of the Independent Person could be sought prior to discharging this function. This would help in giving an external and specialist input into the process. This is the way that Stockton Borough Council and Middlesbrough Borough Council deal with the initial assessment stage.
21. It is recommended that the role of dealing with the initial assessment of complaints is dealt with in future by the Monitoring Officer, with input from the Independent Person. The Standards Committee support this recommendation.

## **The Role of the Standards Committee**

22. In 2012 Council decided to retain the Standards Committee.
23. As anticipated, following the abolition of the Standards Board for England (April 2012) there has been a significant reduction in the work of the Committee with fewer meetings of the Standards Committee, in plenary form. This said, the work of the Standards Committee has not significantly changed as a Sub Committee dealing with complaints handling role.
24. If the initial assessment of complaints moves from the Standards Committee to the Monitoring Officer the work of the Standards Committee in this area will cease. In such circumstances serious consideration needs to be given about whether retaining the committee is warranted.

25. What is proposed is that the Council cease to have a Standards Committee. The role of promoting good standards of member conduct could be moved to the Monitoring Officer. The Audit Committee could be given additional responsibility for ethical values as part of its remit. An annual review of member conduct matters could be undertaken and reported to Council. This approach would achieve savings in payments to the co-opted members (Independent Members and Parish Council Members), and savings in supporting the role of the Standards Committee.
26. One of the functions of the Standards Committee has been the role of granting dispensations. Dispensations have not been used by this authority, so in a sense this consideration is more on the theoretical side. In any event the issue of dispensations was previously considered by Council on 21 March 2013 because of legislation<sup>2</sup> requiring the head of paid service (the Chief Executive in this Council) to be responsible for executive dispensations. In March 2013 Council agreed for the Chief Executive to discharge the role of granting dispensations for both executive and non-executive members, with the understanding that the Chief Executive would delegate this role to the Monitoring Officer. So the function of granting dispensations has already moved from the Standards Committee.
27. There is specific statutory provision about the circumstances that relate to and limit the granting of dispensations (set out in S.33 of the Localism Act 2011).

### **Dealing with Member complaints**

28. If the Standards Committee is abolished a further issue to be considered is how the hearing of member complaints (following a referral for investigation) would be dealt with. The suggestion is for a Member Standards Hearing Committee to be created. This committee would function, in a similar way to Human Resources Committee, when dealing with cases referred to it in relation to employee conduct. It would be a politically balanced committee and convened on an as required basis, when a full hearing is needed to consider a complaint. The Independent Person would be invited to attend any hearing.
29. One the issue over how complaints relating to parish councillors should be dealt with, both the views of parish councils and members of the Standards Committee were sought. The issue concerned whether to have a parish councillor sitting as a member of the hearing committee, attending a hearing (to advise/input), or to have the same format both for complaints against parish council and borough council members.
30. Upon consideration of the issues and the representations and views expressed, the Standards Committee decided to recommend that for complaints against a parish council member, the hearing committee should also include a parish council member. It is proposed that for Borough Council member complaints, the quorum should be 3 Borough Council members and for parish council complaints the quorum should be 2 Borough Council members and a parish council member.

---

<sup>2</sup> The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

31. It is suggested that this would retain an appropriate level of member and independent involvement, while also comprising part of a more streamlined and cost effective way of dealing with member conduct.
32. In respect of dealing with ethical conduct matters aside of complaints, it is suggested that the Audit Committee is given additional responsibility for ethical values as part of its remit, that an annual review of member conduct is reported to Council.

### **Interim Arrangements**

33. Members sitting on the Member Standards Hearing Committee would be required to receive specific standards training before hearing any complaint. To ensure that there is a trained set of Members available in the immediate period it is proposed that the existing five Borough Council members should be appointed to the Committee and that the existing parish council members should sit as co-optees until such time as the groups make alternative nominations or the Parish Council Association are able to provide an alternative nomination. In the event that it is necessary to appoint a new member (there is currently a vacancy on the committee) training will be provided.

### **Consultation**

34. The Standards Committee considered a report on the proposed changes on the 5 March 2014. There are agreeable to the recommendations set out in this report.
35. All Parish Councils were asked for their views about how complaints about parish council should be dealt with (in terms of the hearing panel composition). In total we received 5 responses, the most supported view was a parish council member sitting with the hearing Committee, this is being proposed in this report.