

REPORT OF THE
CONDUCT ADVISORY PANEL
PART I

**272. LOCALISM ACT 2011 – REVISED STANDARDS ARRANGEMENTS – NEW
CODE OF CONDUCT FOR MEMBERS OF THE COUNTY COUNCIL**

1. Provisions in respect of the conduct of Members and the registration and declaration of Members' Interests have previously been as set out in the Local Government Act 2000, and Regulations made thereunder. However Section 7 of the Localism Act 2011 ('the Localism Act') and Schedule 4, which it introduces, contain revised arrangements in respect of a new Member's Code of Conduct which the County Council is required to adopt, and the registration and disclosure of Members' Interests.

2. The provisions of the Localism Act, so far as they relate to Standards Arrangements, were implemented on 1 July 2012. The Members' Code of Conduct contained within the County Council's Constitution has thus ceased to have effect, and the County Council is required to adopt revised arrangements in respect of the conduct of Members and the registration and disclosure of Members' Interests.

3. Recognising the need for the County Council to put in place revised arrangements in respect of a new Members' Code of Conduct, and the registration and disclosure of Members' Interests under the Localism Act, the County Council at its meeting on 17 May 2012 delegated authority to the Conduct Advisory Panel to consider arrangements in respect of these, and to report back to the County Council at its meeting on 19 July 2012, with recommendations as to a new Members' Code of Conduct. Approval of the new Members' Code of Conduct is required, by virtue of the Localism Act, to be done by full Council.

4. The new draft Members' Code of Conduct attached at Annex 1 to this report represents the outcome of the work of the Conduct Advisory Panel. The Monitoring Officer has confirmed that the draft Code meets the requirements of the Localism Act. The role of the Monitoring Officer and other Officers of the County Council is to ensure that the new Code of Conduct recommended by the Conduct Advisory Panel is compliant with statutory requirements and other protocols and procedures of the County Council. Subject to this caveat, the exact form and content of the new Members' Code of Conduct is a matter for the County Council to determine.

5. Members' Code of Conduct

By virtue of Section 27 of the Localism Act, the County Council is required to promote and maintain high standards of Conduct by both Members and Co-opted Members of the County Council, and to adopt a Code of Conduct to deal with the conduct expected of Members and Co-opted Members when acting in an official capacity. By virtue of Section 28 of the Localism Act, such Code of Conduct must, when viewed as a whole, be consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as set out in the

Localism Act. The new Code of Conduct must also include provision in respect of the registration and disclosure of pecuniary interests as defined in Regulations made by the Secretary of State under the Localism Act, and such provision as the County Council considers appropriate in respect of interests other than pecuniary interests which the County Council requires to be registered. Provision in respect of the registration and disclosure of Members' Interests is dealt with in more detail at Paragraphs 6 - 8 of this report.

6. The new Code of Conduct may be either a revision of the existing Members' Code of Conduct, or a replacement of the existing Code. The suggested draft new Code of Conduct approved by the Conduct Advisory Panel attached to this report for the County Council to consider is based on the LGA model approved by local government leaders, and also takes in points in from the DCLG model, together with some additional points suggested by the Conduct Advisory Panel regarding the registration of gifts and hospitality, and the registration and disclosure of non-pecuniary interests.

7. Registration and Disclosure of Members' Interests

Existing provision contained within the County Council's Constitution in respect of the registration and disclosure of Members' Interests has been repealed from 1 July 2012, as part of the repeal of the existing Members' Code of Conduct. Instead, Section 29 of the Localism Act requires the Monitoring Officer to establish and maintain a register of Members' and Co-opted Members' Interests, to make the register available for inspection, and to publish it on the County Council's website. The register must include details of disclosable pecuniary interests ('DPI's'), as defined in Regulations made by the Secretary of State, of themselves, their spouse or person they live with as husband and wife or civil partner, which interests should be registered within 28 days of taking office, and any other interests the County Council considers should be registered. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ('the Regulations') have now been made by the Secretary of State, and the Schedule of disclosable pecuniary interests contained at Part 3, Paragraph 3 of the suggested new Code of Conduct is drafted in accordance with the requirements of the Regulations. Other than 'DPI's', it is up to the County Council to determine in its Code of Conduct what, if any, other interests it requires to be registered.

8. It should be noted that there is no ongoing requirement under the Localism Act to register any new 'DPI', or change to an existing 'DPI', arising after a Member has taken office, although these do need to be declared at meetings and subsequently included on the Register of Members' Interests. However, in the interests of good governance and transparency, the Conduct Advisory Panel considers that the new Members' Code of Conduct should also contain an ongoing obligation to register any new DPI's, or changes to existing 'DPI's'.

9. Where at a meeting a Member or a Co-opted Member of the County Council is aware that they have a 'DPI' in a matter being considered at such meeting, such Member cannot, by virtue of provisions in the Localism Act, participate in discussion or voting on the matter. It should however be noted that unlike the previous provision in respect of prejudicial interests, the Localism Act does not specifically require a Member with a 'DPI' to leave the room while a matter is discussed, or to declare the nature of the 'DPI'. As a matter of good governance, and in the interests of openness and transparency, the Conduct Advisory Panel considers that the new Code

of Conduct should require Members to continue to leave the room when a matter in which they have 'DPI' is discussed, and for Standing Orders to be amended accordingly. However, since details of any disclosable pecuniary interests required to be registered will be recorded on the Register of Members' Interests, the Conduct Advisory Panel does not consider it necessary that Members be required to specifically declare the detail of any 'DPI' at meetings..

10. Registration of Gifts and Hospitality

In addition, in the interests of good governance and transparency, the Conduct Advisory Panel considers that the new Members' Code of Conduct should include provision in respect of the registration of gifts and hospitality, where such gift or hospitality has an estimated value of at least £100. Since gifts and hospitality will be included on the Register of Members' Interests, the Conduct Advisory Panel does not consider it necessary to require Members to declare any gift or hospitality at meetings.

11. Registration and Disclosure of Non-Pecuniary Interests.

Whilst recognising that the new Members' Code of Conduct should focus on 'DPI's' required under the Localism Act to be registered, and additional provisions required by the County Council in respect of the registration and disclosure thereof, the Conduct Advisory Panel considers that Members might, in the interests of transparency and openness, wish to include provision for registration and disclosure in appropriate cases of non-pecuniary interests. The Conduct Advisory Panel does not consider it necessary to be prescriptive as to the nature of any non-pecuniary interest. Membership of other Authorities and representation on outside bodies is listed on Members' individual web pages, and the Conduct Advisory Panel does not consider it necessary for such membership to be recorded additionally on the Members' Register of Interests, although there is of course no reason why Members might not do this. Part 5 of the suggested new Members' Code of Conduct provides provision for Members to register and disclose any non-pecuniary interests, where Members consider this appropriate.

12. This Part also provides provision for Members to consider withdrawal from the room when a matter in which they have a non-pecuniary interest is discussed, in circumstances where a Member considers it appropriate to do so, in order to avoid any allegation of bias in decision making.

RECOMMENDATIONS

That the County Council:

- (a) Adopt the new Members' Code of Conduct as set out in the draft attached at Annex 1 to this report.
- (b) Authorise the Monitoring Officer to make the necessary amendments to the County Council's Constitution, including consequential amendment to Standing Orders, for Members to withdraw from the room while any matter in which they have a disclosable pecuniary interest is discussed.

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