

AT A MEETING of the CONDUCT ADVISORY PANEL IN HAMPSHIRE COUNTY COUNCIL COMMITTEE held at The Castle, Winchester on 15 June 2012.

PRESENT:

Chairman:
p Councillor Mark Kemp-Gee

Councillors:

p Peter Chegwyn	p Pamela Mutton
a Keith Evans	p Jenny Radley
p Jane Frankum	p Tom Thacker
p Andrew Gibson	a Seán D. T. Woodward
p Keith House	

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors K. Evans and Woodward.

2. DECLARATIONS OF INTEREST

Members were mindful that where they believed they had a personal or prejudicial interest in any matter considered at the meeting declared that interest at the time of the relevant debate and, having regard to the circumstances described in paragraphs 9, 10, 11 and 12 of the County Council's Code of Conduct, considered whether to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with paragraph 12 of the Code.

3. CHAIRMAN'S ANNOUNCEMENTS

The Chairman confirmed that Item 5 on the Agenda was being considered as a matter of urgency under Section 100B (4) of the Local Government Act 1972 in order to allow the County Council to meet its statutory obligations.

The Chairman invited the Head of Governance and Monitoring Officer to confirm the current position with regard to the implementation of revised Standards Arrangements under the Localism Act 2011 ("the Localism Act"). The Head of Governance and Monitoring Officer reported that Regulations had now been made abolishing the existing Standards Arrangements from 1 July 2012 and bringing new Arrangements into force with effect from this date. Regulations had also been made defining what constitutes a disclosable pecuniary interest (DPI) under the Localism Act. The recommendations of the Standards Advisory Panel in respect of a new Members' Code of Conduct would be considered by the County Council, as required, on

19 July 2012.

The Chairman invited comments or observations from Members at this point in the proceedings. It was noted that some concern was expressed of the speed at which the new requirements were being implemented, which affected all levels of local government.

4. **TERMS OF REFERENCE OF THE PANEL**

The Committee considered the report of the Chief Executive (Item 4 in the Minute Book) setting out the terms of reference for the Panel, as agreed by the County Council at its meeting on 17 May 2012.

The Panel were of the view that the former standards arrangements for dealing with complaints were time consuming, unwieldy and costly. The new arrangements should therefore be straightforward, transparent, timely and cost effective. It was noted that these matters were further referred to in the report at Item 5 on the Agenda, paragraphs 5.1 and 5.2. It was also noted that a way forward was proposed in the interim to allow any current complaints to continue to be dealt with under existing arrangements to ensure the County Council continues to be compliant with the law.

The terms of reference were duly noted.

5. **LOCALISM ACT 2011 – REVISED STANDARDS ARRANGEMENTS – INTERIM CODE OF CONDUCT FOR MEMBERS OF THE COUNTY COUNCIL AND RELATED MATTERS**

The Panel considered the report of the Chief Executive (Item 5 in the Minute Book) outlining the revised requirements on the County Council in respect of changes in the Members' Code of Conduct and associated Standards Arrangements introduced by the Localism Act. Furthermore, the report advised the Panel on the legislative framework surrounding the changes. In presenting the report, the Head of Governance and Monitoring Officer confirmed that the paper outlined the general direction of the new Arrangements and highlighted issues that Members would need to consider.

It was noted that subject to the mandatory requirements of the Localism Act, the exact format of the new Members' Code of Conduct is a matter of local choice. However, in order to assist Local Authorities in terms of what a new Code might look like, both the Local Government Association (LGA) and the Department for Communities and Local Government (DCLG) had issued suggested 'model' Codes of Conduct. Both the LGA and DCLG models were appended to the report (Annexes 2 and 3) for the Panel's consideration. Also appended for the Panel's consideration was a suggested draft Code of Conduct for Members of Hampshire County Council (Annex 1) based on the LGA model, taking in points contained in the DCLG model, together

with some additional points regarding the registration and disclosure of Members' Interests. Also attached at Annex 1A were draft alternative obligations as based on the existing Code of Conduct for Members to consider.

In regard to Members' Interests, the Head of Governance and Monitoring Officer expanded on Section 29 of the Localism Act which requires a Local Authority's Monitoring Officer to establish and maintain a Register of Members' and Co-opted Members' interests to include details of DPIs. The Panel was invited to consider what other personal interests should continue to be registered, as detailed in paragraph 4.4 of the report, which could then be included in a further draft of the new Code of Conduct for consideration by the Panel at its next meeting. Members were also asked to consider whether there should be provision in the new Code of Conduct for Members to withdraw from a meeting when certain items, which would currently count as a prejudicial interest, were discussed.

Concern was expressed that different Codes of Conduct would be drawn up by all Local Authorities across Hampshire, a situation that could lead to some confusion for 'double' or 'triple hatted' Members. Although it was recognised as desirable to have uniformity across Hampshire, the practicalities of achieving this, in what was a very tight timescale, were considerable and therefore unlikely at this point in time. Furthermore, it was considered that the decision by the DCLG to issue a 'model' code after the LGA had issued their 'model' code, which had cross-party sign-up at national level, had not been particularly helpful.

In terms of the draft Members' Code of Conduct (Annex 1), the Panel were supportive and provided the Head of Governance and Monitoring Officer with a number of comments and observations in respect of Parts 1, 2 and 3 for the purposes of clarity. In respect of Part 4: Personal Interests, the Panel provided input, as requested, and in particular:

- a) that the mechanism for notifying interests be similar to the existing one and streamlined where practicable
- b) that the proposed list of personal interests for inclusion in the Code, as set out in the existing Code of Conduct for Members of Hampshire County Council, be reduced
- c) that the threshold for declaring a gift or hospitality with an estimated value of £25 be revised to £50

The Panel also considered that a Guidance Note should be prepared and issued with the Code of Conduct to all Members of the Council providing Members with more detail, particularly in regard to DPIs as the failure to disclose such an interest would be a criminal offence.

The Head of Governance and Monitoring Officer confirmed that she would be issuing a note to all Members on the new Regulations and the implications arising from them. Training sessions will also be convened to which all Members would be invited.

The Panel further considered how revised arrangements for investigating and determining how complaints of a breach of the Code of Conduct might be conducted. The Head of Governance and Monitoring Officer indicated that a further paper would be brought to a meeting of the Panel outlining a draft process for discussion. It was also considered that within any new arrangements there should be provision to protect elected Members from vexatious and frivolous complaints.

RESOLVED:

That the Conduct Advisory Panel:

- a) considered the new draft Members' Code of Conduct attached at Annex 1 to the Report and their comments be incorporated in a revised draft to be submitted to the Conduct Advisory Panel for approval at its meeting on 4 July 2012, prior to consideration by the County Council at its meeting on 19 July 2012.
- b) noted the new Statutory Requirements introduced by the Secretary of State pursuant to the Localism Act 2011, as set out at Part 3 of the draft new Members' Code of Conduct, in respect of the registration and disclosure of disclosable pecuniary interests.
- c) approved the direction of travel in respect of the procedure to be followed, for the registration and disclosure of Members' Interests, including any consequential change required to Standing Orders.
- d) considered the position in respect of the registration and disclosure of interests, other than pecuniary interests required by the Localism Act to be registered, so that appropriate provision in respect of these can be included in the new interim Members' Code of Conduct to be considered by the Conduct Advisory Panel on 4 July 2012.
- e) approved, as an interim measure, the continuation of existing arrangements in respect of the investigation and determination of allegations of breach of the existing and new Members' Code of Conduct, until such time as revised arrangements are agreed by the Conduct Advisory Panel.

6. LOCALISM ACT 2011 – REVISED STANDARDS ARRANGEMENTS – RECRUITMENT OF AN INDEPENDENT PERSON

The Panel considered the report of the Chief Executive (Item 6 in the

Minute Book) outlining the revised requirements on the County Council in respect of changes to Standards Arrangements introduced by the Localism Act and the need to appoint at least one independent person. In presenting the report, the Head of Governance and Monitoring Officer confirmed that under Section 28(7) of the Localism Act, the views of the appointed Independent Person must be sought before any decision is made on any allegation which the County Council has decided to investigate before it makes any decision. Furthermore, the views of the appointed Independent Person may be sought by the County Council in relation to any allegation in any other circumstances, or by a Member or Co-opted Members against whom an allegation has been made.

The Panel noted that a change had been made in the Commencement Order in support of transitional arrangements which now allows any existing independent members of a Standards Committee to re-apply for the new position of Independent Person, should they wish to do so, as long as they have resigned from the Standards Committee by 30 June 2012. These transitional arrangements only apply for appointments made before 1 July 2013.

The Panel considered that two appointments would be appropriate, one Independent Person to advise the Sub-Committee dealing with a complaint and a second Independent Person to be able to provide support to the elected Member who is the subject of a complaint.

RESOLVED:

- a) that Members of the Conduct Advisory Panel assist in the recruitment of Independent Persons required under the Localism Act.
- b) That the Conduct Advisory Panel thereafter makes recommendations to the County Council in respect of the appointment of such Independent Persons.