

REPORT OF THE
Chief Executive
 PART I

252 (X). LOCALISM ACT 2011 – INTERIM STANDARDS ARRANGEMENTS

1. Existing arrangements relating to the conduct of Members and the registration and declaration of Members' Interests are as set out in Part III of the Local Government Act 2000 ('the 2000 Act'), and Regulations made thereunder. However, these arrangements will be varied by revised provisions set out in Chapter 7 and Schedule 4 of the Localism Act 2011 ('the Localism Act'). Once implemented (expected to be 1 July 2012, but this has so far not been confirmed), the County Council will be required to adopt revised arrangements in respect of the conduct of Members and the registration and declaration of Members' Interests as set out in the Localism Act, and the existing provisions of the 2000 Act including the Members' Code of Conduct contained within the County Council's Constitution will cease to have effect. By virtue of Section 27(8) of the Localism Act functions in respect of Standards matters are not to be Executive functions.

Summary of Revised Requirements of the Localism Act

2. By virtue of the Localism Act the County Council has a duty to promote and maintain high standards of conduct by Members and Co-opted Members of the County Council. In discharging this duty it is required to:

(a) **Adopt a new Members' Code of Conduct.** This can be either a revision of the existing Members' Code of Conduct, or a replacement of the existing code. Approval of the new Members' Code of Conduct is required, by virtue of the Localism Act, to be done by full Council.

(b) **Establish and maintain a Register of Interests of Members and Co-opted Members of the County Council.** As is the case with existing arrangements, this function will need to be carried out by the Monitoring Officer. By virtue of Section 34 of the Localism Act, a criminal offence is committed if a Member or Co-opted Member of the County Council fails, without reasonable excuse, to register or declare a disclosable pecuniary interest (DPI), as defined in Regulations to be made by the Secretary of State, or take part in County Council business at Meetings, or when acting as a single Executive Member, when prevented from doing so.

The County Council can however grant a dispensation from such a restriction when it considers that, by not granting a dispensation, the business of the County Council is likely to be impeded, or the political balance of a Meeting is likely to be so upset as to alter the outcome of a vote, or that granting a dispensation is in the interests of local residents, or that all members of the Executive would be unable to participate in Executive business, or where it considers it appropriate for other reasons. This function can be delegated to a Committee or Standing Panel of the County Council.

(c) **Put in place revised arrangements to deal with and determine allegations that a Member or Co-opted Member of the County Council may be in breach of the new Members' Code of Conduct.** This function may be delegated to a Committee or Standing Panel of the County Council.

(d) **Appoint an Independent Person**, whose views must be sought and taken into account before any decision is made on an allegation which the County Council has decided to investigate, and whose views may be sought by a Member or Co-opted Member against whom an allegation has been made. Whilst approval of the appointment of an Independent Person is required to be done by full Council, the County Council may delegate authority to a Committee or Standing Panel of the County Council to assist in the recruitment of such person.

Report to Cabinet

3. A report on revised Standards Arrangements required in consequence of the Localism Act was presented to Cabinet on 30 April 2012. A copy of the Cabinet Report is attached as Appendix 1 to this report. Contained at Annex 1 and Annex 2 to the Cabinet Report are suggested 'model' Codes of Conduct recently issued by the Local Government Association ('LGA') and the Department for Communities and Local Government ('DCLG'). There are also other Codes of Conduct emerging from other sources.

4. At the Leader's suggestion, following Cabinet a cross-party 'Task and Finish' group was set up to give early consideration to revised Standards Arrangements, as set out in the Cabinet report.

Appointment of Conduct Panel by the County Council

5. Recognising that detailed consideration needs to be given by the County Council to revised Standards Arrangements, including Regulations in respect of DPI's yet to be made by the Secretary of State, it is suggested that a Conduct Advisory Panel is appointed by the County Council. Membership of the Conduct Advisory Panel is required to be proportional in accordance with the Local Government and Housing Act 1989. As an interim measure this could be members of the Task and Finish group referred to at paragraph 4 above. Suggested terms of reference for the Conduct Advisory Panel are attached at Appendix 2 to this Report.

6. Given the number of 'twin hatters' amongst the elected members it is suggested that the Conduct Advisory Panel liaise with other Authorities in the Hampshire area so as to achieve, where possible, a consistency of approach to Standards Arrangements. It is suggested that after detailed consideration of revised Standards Arrangements, the Conduct Advisory Panel report back on its work to the County Council. The County Council could at this time also consider in the light of the recommendations of the Panel, where responsibility for Standards Arrangements under the Localism Act should ultimately lie.

Interim Arrangements

7. As discussed earlier in this report, DCLG has indicated that the revised Standards Arrangements will be implemented on 1 July 2012. Thus whilst recognising that detailed consideration of the new arrangements need to be done, it is prudent for the County Council to put in place interim arrangements in respect of a new Members' Code of Conduct and Members' Interests required under the Localism Act to be registered, in order to avoid the County Council being in a position of non-compliance with statutory requirements.

8. It is therefore suggested that, without prejudice to the final form of the new Members' Code of Conduct and Members' Interests which the County Council may, after full consideration of the matter require to be registered, the Conduct Advisory Panel report back to the County Council at its meeting on 19 July 2012 with recommendations as to adoption, as an interim measure, of a new Members' Code of Conduct. This could be by selecting whichever of the CLG and LGA models Members consider most appropriate or any other course of action.

RECOMMENDATIONS

That the County Council:

1. Approve the appointment of a Conduct Advisory Panel in accordance with the terms of reference set out at Appendix 2 of this report
2. Request the Conduct Advisory Panel:
 - (i) to report back to the County Council at its meeting on 19 July 2012 on its conclusions in respect of an interim new Members' Code of Conduct.
 - (ii) to report back further, as soon as possible, to the County Council on its conclusions in respect of revised Standards Arrangements, so that a decision can be made on the future of Standards Arrangements within the County Council.