

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Maxine O'Mahony, Executive Director Strategy & Governance & Monitoring Officer

**To:** Standards Panel – 27 September 2017  
Council – 1 November 2017

**Author:** Mark Stinson, Executive Manager - Governance

**Subject:** Review of Standards Arrangements and Code of Conduct

**Purpose:** To review the existing Standards Arrangements and Code of Conduct to ensure that they are proportionate and otherwise fit for purpose.

### **Recommendation(s):**

- 1) That the Council adopts a revised set of Local Arrangements for dealing with Standards Complaints and approves the highlighted amendments to the Code of Conduct

### **1.0 BACKGROUND**

- 1.1 The Localism Act 2011 contains the current legislative arrangements for elected Member standards of conduct within local authorities. This superseded the previous arrangements contained in the Local Government Act 2000. The Localism Act also abolished Standards for England (earlier known as the Standards Board) and the associated regulatory framework. The Act also removed the obligation for members to agree to adhere to a model Code applicable across the country. The obligation to have a statutory Standards Committee and for Members to provide an undertaking to comply with a Code were also repealed, along with the sanctions of disqualification and suspension from office.
- 1.2 Nonetheless, there remains a duty on Councils under Sections 27 and 28 of the Localism Act 2011 to promote and maintain high standards of conduct by elected and co-opted members when acting in that capacity; to adopt a Code of Conduct which is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership; to have arrangements in place for the investigation of allegations and for the making of decisions on allegations. How this is achieved in each Council now involves a much greater degree of local choice than was available under the previous regime. The Council's current arrangements were adopted by the Council on 15 May 2013.
- 1.3 South Holland District Council's current code (Appendix A) is published in part 5 of its Constitution, and is also available on the Council's website together with a copy of the current Standards Arrangements.
- 1.4 The Act also required the appointment of one or more "Independent Persons", whose role is both to act as consultee before the Monitoring Officer makes a decision on any allegation s/he has decided to investigate, and also to be consulted by the Monitoring Officer at any other appropriate stage. Tony Wicks was appointed in 2012 and re-appointed in 2015.
- 1.5 The current arrangements have been in place for over four years and, whilst appropriate at the time, are now on occasions cumbersome and unnecessarily complicated. The

current arrangements were largely based on a model set of arrangements that were adopted by a number of authorities at the time. A number of authorities have subsequently reviewed and simplified the arrangements to allow greater flexibility for the Monitoring Officer to deal with a complaint in a timely and efficient manner.

- 1.6 With this in mind, a fully revised set of arrangements was presented to the Standards Panel on 22 March 2017 and it was anticipated that the proposals would be presented to Council in April 2017. The proposed arrangements were approved by the Panel, but were subject to further investigation by the Monitoring Officer particularly as regards certain proposed sanctions. In particular, the Independent Person had suggested including a sanction that would remove powers from a member in breach in respect of their Ward Member Budget.
- 1.7 In order to enable the further research required, the report was withdrawn from April Council for further work. Since that time, the Deputy Monitoring Officer has attended a Monitoring Officer conference and has been able to consider examples of best practice. This has resulted in some further minor amendments to the proposals considered in March – these are all detailed in paragraph 2 below.
- 1.8 Appended to this report are the arrangements, Code and other documentation as approved in March, together with proposed further changes shown underlined (for insertions) or struck through (for deletions).

## 2.0 KEY POINTS

- 2.1 The previous report detailed completely new arrangements and described the benefits arising. In summary, the changes were: a reduction in the number of steps in an investigation; relaxation of the obligation to seek local settlement; more flexibility for the Monitoring Officer to reject complaints in certain circumstances (e.g. those with no/little merit or those where the process is unlikely to improve standards of member conduct); more clarity around which complaints are not investigated as a Standards matter; the establishment of formal procedures for hearings; a reduction in the limit for declaration of gifts from £100 to £50; and inclusion of some text in the Code of Conduct to cover 'other interests'.
- 2.2 The following changes are now proposed to the draft that was considered by the Panel in March:
  - a. On reflection, it is proposed that the declaration of gift limit should revert to £100. A number of parish councils have based their Code on South Holland District Council's Code and this means that we could end up with district councillors having a more onerous obligation than parish councillors.
  - b. The addition to the Code of Conduct in respect of 'other interests', at paragraph 2.3 of the Code, has been reworded following discussions with other Monitoring Officers at the conference mentioned above. The reason for this is to make reference to the Nolan principles and to suggest that, where in doubt, members should seek advice from the Monitoring Officer.
  - c. Ward member budgets – I have given further consideration the proposal (which was suggested by the Independent Person) and it is difficult to see how this could work lawfully. As a starting point, I consider that any sanction which ultimately causes a detriment to a potential recipient of a grant would be susceptible to challenge. Whilst, in wards with more than one member, another member could take over responsibility for dealing with the subject member's budget, there would be

difficulties with single member wards. s236 of the Local Government and Public Involvement in Health Act 2007 provides for delegation to a member of functions (in this case ward member budgets) that s/he can exercise in relation to his/her ward. Thus, it is difficult to see how this function could be passed over to an officer or a member of an adjoining ward. As a result, this proposed sanction has been removed.

- d. Whilst considering the implications of the ward member proposals covered in (c) above, it became clear that similar rationale needed to be applied to an additional sanction that was included in the arrangements considered at the Panel meeting in March. The proposed additional sanction related to the withdrawal of facilities or services from a member in breach of the Code of Conduct. As I have stressed above, such sanction should not have a detrimental effect upon constituents of the member in question. This proposed sanction must, therefore, either be limited in its extent (so as not to interfere with the member carrying out his/her duties as an elected member), or it should be deleted. I have deleted the sanction from the draft arrangements – should members wish to retain the sanction then an alternative form of words will be required.
- e. The sanction of ‘censure or reprimand’ in the arrangements has been changed to ‘publication of findings’. On reviewing the various documents it was noted that the draft Arrangements and draft Hearings Procedures were inconsistent (the Arrangements referred to ‘censure or reprimand’ and the Hearings Procedures for Districts and for Parishes referred to ‘publication of findings’).

### 3.0 **OPTIONS**

- 3.1 Agree the revised arrangements and Code of Conduct and recommend to Council.
- 3.2 Agree the revised arrangements and Code of Conduct with amendments.
- 3.3 Do nothing and continue with the current arrangements and Code of Conduct

### 4.0 **REASONS FOR RECOMMENDATION(S)**

- 4.1 The procedure will allow complaints to be dealt with in a more timely and efficient manner, thereby reducing the cost of the service.

### 4.0 **EXPECTED BENEFITS**

- 4.1 Reduced administrative burden in the process and speedier response to complainants and subject members.

### 5.0 **IMPLICATIONS**

#### 5.2 **Constitution & Legal**

Elected members and co-optees are required to act in accordance with the Council’s Code of Conduct and the Council must have appropriate arrangements in place, in accordance with the Localism Act 2011

### 5.3 Equality and Diversity / Human Rights

No issues to raise.

### 6.0 WARDS/COMMUNITIES AFFECTED

6.1 All wards

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Background papers:-

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#### **Lead Contact Officer**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

#### **Appendices attached to this report:**

Appendix A South Holland District Councils Code of Conduct  
Appendix B How to make a complaint about a District, Town or Parish Councillor in South Holland  
Appendix C Complaint Form  
Appendix D Hearing Procedures – District Councillor  
Appendix E Hearing Procedures – Parish Councillors