



IMPLEMENTATION OF THE NEW STANDARDS REGIME

SUMMARY

- 1.1 The report gives a background to the new Standards Regime and the measures that the Council has taken to introduce them.
- 1.2 In summary these measures include;
- ❖ Adopting a new Code of Conduct for Members
 - ❖ Establishing a new Standards Committee
 - ❖ Adopting a new streamlined process for considering complaints against Members
 - ❖ Recruiting two "Independent Persons" for the Standards Committee
 - ❖ Arranging training for elected members and the co-opted members on the Conservation Area Advisory Committee on Disclosable Pecuniary Interests (DPIs)
 - ❖ Setting up a new register of members declarable interests and taking steps to ensure members do register them.
 - ❖ Making consequential amendments to the Council's constitution
 - ❖ Revising the complaint form and guidance for those wishing to complain about a member

RECOMMENDATION

- 2.1 To note the measures taken to implement the new Standards Regime.
- 2.2 To request the Monitoring Officer to take all necessary steps to ensure that those elected members who have not returned completed Disclosable Pecuniary Interest forms do so as soon as possible.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that members are transparent in publically declaring their interests and to avoid them committing a criminal offence.

SUPPORTING INFORMATION

Background

- 4.1 The Localism Act 2011 made some fundamental changes to the standards regime introduced by Local Government Act 2000. In summary it:
- ❖ Abolished Standards for England (formerly the Standards Board for England)
 - ❖ Withdraw the requirement for Local Authorities to have a Standards Committee
 - ❖ Abolished the role of (voting) independent members and replaced it with a diminished and non voting role for “at least one Independent Person”
 - ❖ Retained the obligation on Councils to have a Member Code of Conduct but gives them more freedom to decide what is in it.
 - ❖ Replaced personal and prejudicial interests with Disclosable Pecuniary Interests (DPI), and make it a criminal offense to participate or vote on a matter where the member has a DPI
- 4.2 The Act requires Local Authorities to promote and maintain high standards of conduct by elected and co-opted members and have in place arrangements to investigate and make decisions on allegations of breach of the Code of Conduct. Therefore even though the requirement to have a Standards Committee is removed most authorities have retained one in one form or another. However the sanctions it can impose are much reduced.

Derby's consideration of these Issues

- 4.3 Following a request from the Governance Committee in February 2011 the Council's Scrutiny Management Commission undertook, over the summer and autumn of 2011, a comprehensive review of the new ethical standards and how best they should be applied in Derby.

- 4.4 The Commission gathered evidence from elected members, independent members of the Standards Committee, senior Council Officers and expert external witnesses. Having considered this evidence and debated the issues the Commission decided at its meeting on 13 December 2011 to make the following recommendations in relation to the new standards regime;
- ❖ To adopt a Local Code of Conduct (the Localism Bill was subsequently amended to make such a code a requirement).
 - ❖ To retain the Standards Committee in its current form with four Independent Members and three elected Members.
 - ❖ To streamline the Standards Committee process for considering complaints against Members
 - ❖ To change the procedure to allow Councillors to receive details about the complaints made against them when they are received by the Monitoring Officer.
 - ❖ Approach other peer authorities with a view to having reciprocal arrangements to undertake each others investigations.
- 4.5 At its meeting on 25 January 2012 Full Council considered and agreed the first two of these recommendations. However the final form of the Code of Conduct had still to be approved as detailed statutory provisions on declarable interests were still awaited. In addition, the make-up of the Standards Committee needed to be revisited to accommodate the new statutory requirement for "Independent Persons."
- 4.6 The Council's former Standards Committee, of three elected Members and four independent members, considered the matter at its meeting on 25 April 2012 and unanimously recommended to Full Council that;
- ❖ The current model code be adopted (but with necessary amendments when the new regulations on disclosable interests were known).
 - ❖ The new Standards Committee should be made up of five elected members, two independent persons and two co-opted independent members.
 - ❖ The new and streamlined procedure for processing and considering complaints (at Appendix 2 to this report) should be adopted.

- 4.7 These recommendations were accepted Full Council at its meeting on 23 May 2012. It also agreed ;
- ❖ To give the Monitoring Officer authority to advertise for the appointment of the two Independent Persons posts
 - ❖ To give the Chair of the Standards Committee and two other members authority to short list and interview candidates for the two Independent Persons posts and to make recommendations to the Council for their appointment and the appointment of the two co-opted members.
 - ❖ To ask the Monitoring Officer to bring a further report on the registration and disclosure of Members' interests once the new statutory Regulations were published.
- 4.8 Subsequently at its meeting on 18 July 2012 Full Council received a further report from the Monitoring Officer dealing primarily with the new Regulations on declarable interests (Disclosable Pecuniary Interests which replaced Personal and Prejudicial Interests) and the appointment of 'Independent Persons' and co-opted members to the new Standards Committee.

Independent Persons & Co-opted Members

- 4.9 At its meeting on 18 July Full Council agreed to Phillip Sunderland and Peter Parnell, former Chair and Vice Chair respectively of the old Standards Committee, being appointed as co-opted non-voting members of the new Standards Committee for 4 years.
- 4.10 After advertising for the posts of "Independent Persons" a panel of Cllrs Barker, Jackson & Shelton appointed Peter McCrea and Alan Cameron to the new Standards Committee.

Register of Disclosable Pecuniary Interests (DDIs)

- 4.11 As the new rules on declarable interests (DDIs) vary considerably from the old ones on personal and prejudicial interests the report to Full Council on 18 July dealt with the matter in some detail. In addition members were given a briefing prior to the meeting by the Monitoring Officer.
- 4.12 At the end of the meeting on the 18 July a new "Declaration of Interests" form was given to each member present and sent to those few who were not. Members were requested to complete and return these to the Monitoring Officer for registering and public inspection by 15 August (see Appendix 4). To date eight Members are still to return their completed forms and reminders have been sent out.
- 4.13 In addition to elected members the co-opted members of the Conservation Area Advisory Committee have received training on the new rules and asked to complete and return forms by 22 October. Completed forms have already been received from the two co-opted members on the Standards Committee, Mr Sunderland & Mr Purnell and the Independent Person Peter McCrea.

Code of Conduct & Declaration to Observe

- 4.14 At the end of the Full Council meeting on 18 July all members present were given a copy of the new Council Code of Conduct, which they had just approved, and asked to sign a declaration to observe it. The small number of members not there were subsequently sent the declaration and asked to sign it in the presence of the Monitoring Officer or his nominee.
- 4.15 Signed declarations have been received from all elected members

OTHER OPTIONS CONSIDERED

- 5.1 None

This report has been approved by the following officers:

Legal officer	Stuart Leslie – Director of Legal & Democratic Services
Financial officer	Not applicable
Human Resources officer	Not applicable
Service Director(s)	Not applicable
Other(s)	Not applicable

For more information contact:	Stuart Leslie: 01332 643653 e-mail stuart.leslie@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – The new procedure for considering complaints Appendix 3 – Declaration to observe the new Code of Conduct Appendix 4 – Email to all elected members on registering the declarable interests

IMPLICATIONS

Financial and Value for Money

- 1.1 None arising directly from this report.

Legal

- 2.1 None arising directly from this report.

Personnel

- 3.1 None arising directly from this report.

Equalities Impact

- 4.1 All Derby people will benefit from an effective Standards Committee.

Health and Safety

- 5.1 None arising directly from this report.

Environmental Sustainability

- 6.1 None arising directly from this report.

Asset Management

- 7.1 None arising directly from this report.

Risk Management

- 8.1 None arising directly from this report.

Corporate objectives and priorities for change

- 9.1 This report has the potential to link with all the Council's Corporate Objectives.

**PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS
HAVE BREACHED THE CODE OF CONDUCT**

1. Monitoring Officer (MO) acknowledges receipt of the complaint within 5 workings days of receipt.
2. MO informs the subject member of
 - (a) the complaint, giving a summary of it and the name of the complainant
 - (b) his right to consult, through the MO, one of the Independent Persons (IP) appointed by the Council.
3. MO, in consultation with a IP (other than one consulted by the subject member under para 2(b)), decides, within 20 working days of receipt of the complaint, that;
 - (a) The complaint does not come within the remit of the Code of Conduct.
 - (b) The complaint is not sufficiently serious to warrant an investigation
 - (c) It is not in the public interest to investigate the complaint
 - (d) He should seek to resolve the complaint without the need for an investigation (e.g. by an apology or training by the subject member).
 - (e) The Complaint should not be investigated because it is vexatious, malicious, obsessive or partisan.
 - (f) The Complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident.
 - (g) An investigation should take place
4. Before coming to his/her decision under para 3 the MO may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.
5. If the MO decides that the complaint should be investigated, or his/her attempts to resolve the complaint without an investigation do not succeed, then he will carry out an investigation or appoint an investigator to carry out an investigation on his behalf.
6. The investigator appointed under para 5 by the MO maybe;

- (a) A senior officer of the Council
 - (b) A senior officer of another Council
 - (c) An external investigator with relevant experience.
7. A report into an investigation shall include the investigator's findings on whether the Code has been breached.
8. Before finalising his/her report the Investigator shall send a copy of it to both the complainant and subject member and give them at least 5 working days to comment on it.
9. If the investigator's final report finds there has not been a breach of the Code the MO can, in consultation with the IP, decide to;
- (a) Take no action
 - (b) Refer the report for a hearing before the Standards Committee
10. If the investigator's report finds there has been a breach of the Code then the MO must refer the matter for a hearing before the Standards Committee
11. When the matter has been referred to a hearing before the Standards Committee by the MO, it will;
- (a) Allow the investigator to present his report and call witnesses, including the complainant
 - (b) Allow the subject member to make representations and call witnesses
 - (c) Decide if the subject member has breached the Code of Conduct
 - (d) Decide what sanction should be imposed if they decide the Code has been breached.
12. The sanctions the Standards Committee can impose if they find a breach of the Code are one or more of the following;
- (a) Censuring the member
 - (b) Reporting its findings to Council for information;
 - (c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

- (d) Recommending to Council that the member be replaced as Executive Leader of the authority;
 - (e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (f) Recommending the Monitoring Officer to arrange training for the member;
 - (g) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority
13. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards Committee will consult and take into account the views of the IP who will attend such hearings.
14. Following any final decision by the MO or the Standards Committee at whatever stage the MO shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
15. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be published in a prominent position on the Council's website
16. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website in a prominent position if the subject member wishes it to be.
17. Any decision of the MO or Standards Committee shall be final and binding.
18. The MO will every 6 months take a report to the Standards Committee giving;
- (a) The number of complaints received and brief details
 - (b) How they are progressing
 - (c) What decisions have been made
 - (d) What action has, where appropriate, been taken
19. The MO has delegated power, in consultation with the IP and the Chair of the Standards Committee, to approve a departure from these arrangements when he/she

considers it is expedient to do so to secure the effective and fair consideration of any matter.

20. In all cases where the MO is unable to perform his role his/her deputy will do so.



Derby City Council

CITY OF DERBY

UNDERTAKING

TO OBSERVE THE CODE OF CONDUCT

I,.....

Being a co-opted member of Derby City Council
undertake to observe the Council's Code of Conduct

Dated 2012

.....

This undertaking was made and signed before me

.....

Proper Officer

Or

His nominees

Waring, Jackie

From: Waring, Jackie on behalf of Leslie, Stuart
Sent: 20 July 2012 15:41
To: COA Councillors
Cc: O'Brien, Phil; Walsh, David
Subject: Register of Interests

REGISTER OF INTERESTS

You should all have been given a form to declare your Disclosable Pecuniary Interests (DDI) and gifts and hospitality after Full Council on Wednesday.

Deadline

These forms must be completed and returned to Constitutional Services, for me to sign no later than 15 August 2012

Drop In Session

I will be in the Constitutional Services offices from 2pm to 5pm on Tuesday 24 July to receive and sign returned forms to try and answer any queries you may have.

Queries

I have, not surprisingly, already received a number of queries on what should be declared. I will answer these next week. I also hope to issue a Q & A leaflet soon giving advice on some problematic areas.

Answer All Questions

Can I stress that where you or your partner does not have a disclosable interest you must enter "none" in the relevant box. If you leave it blank we will return it to you to complete.

Pensions

Can I take this opportunity to correct some advice I have already given to the members that "pensions" from a former employer must be declared. Having read the regulations again my opinion is that they do **not** need to be declared

Stuart Leslie
Director of Legal & Democratic Services

20 July 2012

