



Governance Committee

Item
12

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of the Members' Code of Conduct and the Council's "Arrangements"		
Wards affected	Not applicable		

This report requests the Committee to review the Members' Code of Conduct and the Council's "Arrangements"

1. Decisions Required

- 1.1 To note the contents of this report.
- 1.2 To agree to keep the Members' Code of Conduct and the Council's "Arrangements" under annual review and to recommend to Council any subsequent amendments in the light of experience.
- 1.3 To approve the updated Member / Officer Protocol and agree that it be included in the Council's Constitution.

2. Background

- 2.1 The Localism Act 2011 ("the Act") made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Members. These new arrangements came into effect on 1st July 2012. The Act required that local authorities adopted a code of conduct consistent with the seven Nolan Principles of public life and that Principal Authorities put in place "Arrangements" to deal with allegations that Councillors had failed to comply with the Members' Code of Conduct. Principal Authorities were also required to appoint at least one "Independent Person" who would be consulted as part of the Council's "Arrangements".
- 2.2 The Full Council at its meeting on 25 June 2012 formally adopted the Borough Council's Members' Code of Conduct and its "Arrangements" which are attached to this report at Appendix 1 and Appendix 2 respectively. As part of its "Arrangements", the Full Council at its meeting on 22 May 2013 appointed Barbara Pears and Sarah Greatorex following a public recruitment exercise as the Council's Independent Persons for a term of four years.
- 2.3 The Act also introduced a new interest's regime which included a new register of Members' interests. The Government published amended guidance in September 2013 for councillors on interests ("Openness and transparency on personal interests – a guide for councillors") which has been circulated to all Borough Councillors and to every Town and Parish Council within the Borough.
- 2.4 The Act places on the Borough Council a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.
- 2.5 The Committee at its meeting on 14 October 2014 last reviewed the Council's Localism Act processes and this report seeks to review our subsequent experience to date.

3.0 Review of the Code

- 3.1 The Act did not prescribe the contents of the Code (save to be consistent with the seven Nolan principles) and accordingly the version of the Members' Code of Conduct adopted by the Full Council was a version promoted by the Public Law Partnership. This was to ensure a consistent approach across the County and to ensure that all council's (County, districts and parishes) adopted the same version of the Code so as to provide a sense of clarity for Councillors.
- 3.2 All the Town and Parish Council's in the Borough adopted the Borough Council's Code. The Borough Council's Code has been operating successfully in the part year without any apparent difficulties or concerns and I would propose that the Committee continues to keep the Code under annual review and makes recommendations to Full Council on any subsequent amendments in the light of experience.
- 3.3 The Act requires the Monitoring Officer to compile and publish on the Borough Council's website the Register of Members Interests. This includes Disclosable Pecuniary Interests for both Councillors and their partners and also pecuniary and non-pecuniary interests just for Councillors. All of the Borough Councillors interests are published and most of those of the Town and Parish Councillors in the Borough have also been published on the Borough Council's website. However, the Act did not make it a statutory requirement for all existing Councillors to register their declarable interests. The Act does however make it an offence for a councillor to fail to register their declarable interests within a period of 28 days of becoming elected. However the Government stated in its guidance:-

"All sitting councillors need to register their declarable interest. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty (i.e. Nolan Principles), with which you must comply"

This has been specifically been drawn to the attention of all Town and Parish Councils.

- 3.4 With the introduction of the Borough Council's new Committee Management Information System on its website, the Register of Members' Interests has been improved in line with the Government's transparency agenda so that all Councillors' information is in one place on the website.
- 3.5 Training on the Code on Conduct was offered by the Monitoring Officer for new Councillors following the Borough elections and refresher training is always available as required.
- 3.6 The first prosecution in the country has now been brought under the Act in relation to a councillor in Dorset who had failed to declare a disclosable pecuniary interest at a meeting. The councillor was given a six month conditional discharge and ordered to pay costs.

4.0 Review of the Arrangements

- 4.1 The Act required the Council to adopt "Arrangements" for dealing with allegations that Councillors have potentially failed to comply with the Code. Any allegations that Councillors have not complied with the Disclosable Pecuniary Interests regime under the Act are not dealt with under the Council's "Arrangements" as they are potentially criminal offences and need to be dealt with by the Police. As at the date of this report there have been no such allegations or referrals.

- 4.2 The Council's "Arrangements" comprise a more streamlined approach to dealing with councillor complaints compared to the previous regime. The "Arrangements" are made publically available on the Borough Council's website and have been used on several occasions. All allegations are received by the Monitoring Officer who makes an assessment of the merits of the complaint in consultation with an Independent Person.
- 4.3 The table at Appendix 1 below details the number, type and outcome of allegations received since 1 July 2012.
- 4.4 The Council's "Arrangements" appear to be operating satisfactorily and I would propose that the Committee continues to keep them under review and makes recommendations to Full Council on any subsequent amendments in the light of experience.

5. Member / Officer Protocol

- 5.1 The Member / Officer Protocol is contained in Part 5 of the Constitution. This Protocol provides a guide to good working relationships between Members and Officers, to define the respective roles of Members and Officers and provide some principles governing conduct.
- 5.2 The opportunity has been taken to refresh the Protocol by updating some of the terminology and to make it consistent with the current Council structures. The updated version is attached to this report at Appendix 3.
- 5.3 One specific addition has been made at paragraph 10 (4) in relation to social media. When the Protocol was originally agreed the use of social media was not so prevalent. This addition now makes it very clear that both Members and Officers should not use social media to criticise or undermine respect for the other and that they must comply with the Council's Social Media Policy at all times.
- 5.4 Any breach of the Member / Officer Protocol by Members will be dealt with via the Council's "Arrangements" and if by an Officer via the Council's disciplinary procedures.

6. Strategic Plan References

- 6.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

7. Publicity Considerations

- 7.1 The Council's Code of Conduct and "Arrangements" are available on the Council's website at www.colchester.gov.uk/standards

8. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 8.1 None.

Councillor Code of Conduct Allegations received since 1 July 2012

Allegations	July12 – March13	April 13 – March 14	April 14 – October 14	Nov 14- October 15	Total
Number of allegations received	2	3	2	3	7
Borough Councillors	1	3*	2	1	5
Parish Councillors	1	1	0	2	2

* one complaint was made against two councillors

The majority of allegations came under the heading of “treating others with respect” with one being under the heading of “not to do anything which may cause the Authority to breach any of the equality enactments”.

Source of complaints	July12 – March13	April 13 – March 14	April 14 – October 14	Nov 14- October 15	Total
Member of the public	2	6#	2	2	10
Borough Councillors	0	0	0	1	0
Parish Councillors	0	0	0	0	0
County Councillors	0	0	0	0	0
Member of Parliament	0	1	0	0	1

five separate persons made same complaint against one councillor

Outcome	July12 – March13	April 13 – March 14	April 14 – October 14	Nov 14- October 15	Total
Merits no further investigation	2	3	2	2	7
Merits further investigation	0	0	0	0	0
Referral to Governance Committee	0	0	0	1	0