

HAMBLETON DISTRICT COUNCIL

Report To: Council
11 June 2012

From: Chief Executive

Subject: CODE OF MEMBER CONDUCT AND APPOINTMENT OF INDEPENDENT PERSONS

All Wards

1.0 SUMMARY:

1.1 The purpose of this report is to:-

1.1.1 adopt a Code of Member Conduct under the new Standards Regime with effect from 1 July 2012;

1.1.2 appoint Independent Persons for the purposes of the new Standards Regime;

1.1.3 determine whether the Council's Procedure Rules should be amended to require Members to leave Council or Committee meetings when they have a disclosable pecuniary interest.

2.0 BACKGROUND:

2.1 The current Standards Regime will be abolished with effect from 30 June 2012. Council has already adopted procedural arrangements for dealing with the investigation of Member conduct issues from 1 July 2012.

2.2 However, Council has not yet considered what Code of Member Conduct should be in place from 1 July 2012. Consideration of this subject has been delayed because Officers have been awaiting model Codes of Conduct from the Local Government Association and the Department of Communities and Local Government together with certain Regulations which may impact on the Code.

3.0 CODE OF MEMBER CONDUCT:

3.1 A possible Code of Conduct is attached as an Annex to this report.

3.2 The Code is based on the current Code, but has been amended following a recent Member Seminar. It has a number of differences from the current Code:-

3.2.1 it uses plainer English;

3.2.2 it includes a reference to disclosable pecuniary interests (para 10.1) which is the new criminal offence under the Localism Act;

3.2.3 it removes many of the requirements to register and disclose personal interests.

3.2 Once adopted the Code will be recommended to Parish Councils in an attempt to have a consistent approach across the District.

4.0 INDEPENDENT PERSONS:

4.1 The Localism Act requires the Council to appoint at least one Independent Person to fulfil certain functions where allegations are made that a Member of the District or Parish Councils have breached a Code of Conduct. The principal functions are to provide views on allegations to the Council, complainants or those complained about.

4.2 It has already been agreed by Council that three Independent Persons should be appointed and will be involved on a rota basis. In particular, an Independent Person will attend the Standards Hearings Panel in a non-voting capacity.

4.3 It had also been agreed in principle that the three existing independent non-elected Members of the Standards Committee should automatically be appointed as the Independent Persons if this was possible. However, it has now been confirmed that those individuals must apply to be Independent Persons along with other members of the public.

4.4 Consequently, applications have been invited from the public to be Independent Persons and a Panel comprising the Chairman and Vice-Chairman of the Audit, Governance and Standards Committee will make a recommendation to Council, conducting interviews on 8 June 2012 if necessary.

4.5 Recommendations of the Panel will be reported to Full Council at the meeting.

5.0 COUNCIL PROCEDURE RULES:

5.1 Under the current Standards Regime Members who have a prejudicial interest in a matter are required to leave the meeting except in certain circumstances. The new legislation does not require this to happen even if there is a disclosable pecuniary interest.

5.2 The Council has the power to amend its Council Procedure Rules to require a Member to leave a meeting when he/she has a disclosable pecuniary interest. There is no power to require Members to leave a meeting in other circumstances (e.g. lesser interests).

5.3 If the Council wishes to change its Procedure Rules the following additional Procedure Rule is suggested:-

“18.5 Withdrawal when Disclosable Pecuniary Interest - where a Member has a disclosable pecuniary interest in any business of the Council the Member must withdraw from the room or chamber where the meeting considering the business is being held during consideration and voting on the business.”

5.4 Paragraph 12 of the Code of Conduct at the Annex to this report makes it a breach of the Code not to comply with such a Procedure Rule.

6.0 LEGAL IMPLICATIONS:

6.1 The Council is required to adopt some form of Code of Conduct by 1 July 2012 and the Code must, viewed as a whole, be consistent with the seven principles:-

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honest
- Leadership

It should also contain such provisions as the Council thinks appropriate in relation to the registration of interests in the Register of Members' Interests and the disclosure of pecuniary and non-pecuniary interests. That apart, the scope and content of the Code is a matter for the Council.

- 6.2 Nothing in the Council's Code can override or do away with the provisions in the Act regarding the registration and disclosure of interests, dispensations and criminal offences.
- 6.3 Full Council is required to appoint the Independent Person(s) under the Localism Act. This is not optional.
- 6.4 The Council's Procedure Rules would need to be changed if Members are to be required to leave a meeting when they have an interest.

7.0 FINANCIAL IMPLICATIONS AND EFFICIENCIES:

- 7.1 The nature of the Code may impact on the cost of investigating and adjudicating on allegations made against Members of a breach of the Code. For example, if the number of requirements in the Code is reduced it is possible that the number of allegations might be reduced. However, the current Code has remained largely unchanged since its inception and the number of allegations has varied from year to year.
- 7.2 The cost of registration of interests and investigation/adjudication of allegations is currently budgeted for.
- 7.3 Any allowances payable to Independent Persons will be minimal and payable from existing budgets.
- 7.4 There are no other financial implications of this report.

8.0 CONCLUSIONS:

- 8.1 The Council is required to adopt a Code of Member Conduct and appoint Independent Persons with effect from 1 July 2012.
- 8.2 It is therefore recommended that the Council adopt a Code based on that contained in the Annex to this report, either with or without modification.

9.0 RECOMMENDATION:

- 9.1 It is recommended that:-

- (1) the Code of Member Conduct in the Annex to this report be adopted from 1 July 2012 for the purposes of Section 27(2) of the Localism Act 2011;

- (2) the persons reported to Council at the meeting be appointed as Independent Persons;
- (3) the Council's Procedure Rules be amended by adding the Rule contained in paragraph 5.3 of this report.

PHIL MORTON

Background papers: None

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A DRAFT CODE OF CONDUCT FOR THE MEMBERS OF
HAMBLETON DISTRICT COUNCIL

Hambleton District Council (“the Authority”) has adopted the following Code for the purposes of Section 27(2) of the Localism Act 2011 dealing with the conduct that is expected of Members of the Authority when they are acting in that capacity.

The Code is intended to be consistent with the following seven principles, and should be read in the light of those principles, namely that Authority Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

1. You must treat others with respect.
2. You must not intimidate or attempt to intimidate any person.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.
5. You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person any advantage or disadvantage and this includes discussing with other Members any matter in which you have a disclosable pecuniary interest.
6. If you are in receipt of any gift or hospitality which is attributable to your membership of the Authority and is of a value in excess of £25, or any offer of any such gift or hospitality, you must disclose this to the Monitoring Officer; and you must decline to accept any such gift or hospitality which could reasonably be perceived as creating an obligation upon the Authority, or upon yourself as a Member of the Authority.
7. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
8. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - 8.1 You have the consent of a person authorised to give it; or
 - 8.2 You are required by law to do so; or
 - 8.3 The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - 8.4 The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Authority.
9. Where, as a Member of the Authority, you have been involved in making any decision which is subsequently subject to scrutiny within the Authority, you must not take part in the scrutiny process. In this paragraph, “scrutiny” means the formal examination by the

Authority, a Committee of the Authority, or a group of people including Members of the Authority, of a policy or decision previously approved or taken by or on behalf of the Authority, in order to reach a view on its rectitude, efficacy, performance or value for money. For the purposes of this paragraph, you do not take part in a scrutiny process if you simply offer evidence or opinion to the scrutiny body, and do not participate in its decision.

- 10.1 Subject to paragraph 13, you must register in the Authority's Register of Members' Interests information regarding your personal interests. In this Code of Conduct "your personal interests" means any disclosable pecuniary interest as defined by statutory regulations in force from time to time.
- 10.2 You must register information regarding your personal interests by giving written notice to the Monitoring Officer, who maintains the Register; and you must give such notice in accordance with any statutory regulations.
11. Where you consider that disclosure of the details of any of your disclosable pecuniary interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may so inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a disclosable pecuniary interest, details of which are withheld under Section 32 of the Localism Act 2011.
12. You must comply with any Standing Order or Procedure Rules adopted by the Authority which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary interest is being discussed.