

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS

1.	Meeting:	Cabinet
2.	Date:	25 April 2012
3.	Title:	Localism Act 2011 and Code of Conduct for Members and Co-opted Members
4.	Directorate:	Resources

5. Summary

The current standards regime is set to end on 30 June 2012 and the following day the new standards regime under the Localism Act 2011 implemented. The Act sweeps away the current statutory provisions under the 2000 Local Government Act, including a requirement to have a statutory standards committee and a code of conduct based on a statutory model.

There will still however be a statutory duty to promote and maintain high standards of conduct by members and co-opted members and in discharging that duty the Council must adopt a code of conduct setting out what is expected of members when they are acting in that capacity.

It is largely for the Council to determine the composition of its new code of conduct with the only mandatory requirements being that it complies with the seven principles of public life (the Nolan Committee principles; see Appendix 1) and contains appropriate provisions for the registration of pecuniary and non-pecuniary interests. Disclosable pecuniary interests ("DPIs") are a key change which will be detailed in regulations issued by the Secretary of State. Members will be required to register DPIs and not take part in any discussion or vote on an item in which they have a DPI.

A member who has a DPI in an item of business will commit a criminal offence by failing to disclose it and taking part in the discussion and voting on that item. There will however not be a requirement to leave the room while the item is discussed. Consequently, it is recommended that the Council's Standing Orders be revised to include such a requirement.

There has been some delay in implementing the provisions of the 2011 Act that apply to standards and, in particular, the regulations defining what will constitute DPIs have not yet been published. Consequently, as the government's stated intention is to bring the new standards regime into force on 1 July, it is suggested that to avoid the possibility of the Council not having a code in place (the government may give a period of grace but this is not certain) the Cabinet recommend to full Council the re-adoption on the implementation date of the new standards regime the current *Code of Conduct for Members and Co-opted Members* as revised by the monitoring officer, in consultation with the Leader and Deputy Leader, to reflect the mandatory requirements of the 2011 Act in relation to standards.

The monitoring officer could thereafter review the revised Code and prepare a report and draft code for consideration by the Cabinet with a view to recommending the adoption of the code by the full Council.

6. Recommendations

That Cabinet

It is recommended that:

- a. the Cabinet recommend to full Council that, subject to any transitional period in relation to the new standards provisions, on the coming into force of the relevant provisions of Chapter 7 (standards) of the Localism Act 2011 the Council re-adopt the current *Code of Conduct for Members and Co-opted Members* as revised by the monitoring officer, in consultation with the Leader and Deputy Leader, to reflect the mandatory requirements of the Act;**
- b. the monitoring officer be instructed subsequently to review the revised Code and prepare and present to the Cabinet a draft code of conduct for recommending for adoption by the full Council.**
- c. the draft code should require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests;**
- d. when the Disclosable Pecuniary Interests Regulations are published, the monitoring officer, in consultation with the Leader and Deputy Leader, add to the draft code provisions which she considers to be appropriate for the registration and disclosure of interests other than DPIs; and**
- e. the Cabinet recommend to full Council that a new sub-paragraph (4) should be inserted in standing order 28 (4) in the terms set out in this report and that sub-paragraphs (4) and (5) of standing order 28 be renumbered (5) and (6) respectively.**

7. Proposals and details

Background

The Code of Conduct

The current ten General Principles and statutory model code of conduct (see Appendix 2) will shortly be repealed, and members will no longer have to give an undertaking to comply with the *Code of Conduct for Members and Co-opted Members*. However, the Council will be required to adopt a new code of conduct governing elected and co-opted members' conduct when acting as members. The Council's new code of conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership.

The Council has discretion as to what it includes within its new code of conduct, provided that it is consistent with these principles. However, regulations to be made under the Act will require the registration and disclosure of “Disclosable Pecuniary Interests” (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

The Council's new code of conduct will therefore have to deal with the following matters –

- general conduct rules, to give effect to the seven principles. This corresponds broadly with paragraphs 3 to 7 of the current Code of Conduct. In practice, the easiest course of action would be simply to re-adopt paragraphs 3 to 7 of the existing Code of Conduct. The Council can amend its code of conduct subsequently if the need arises; and
- registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate.

There are a number of model draft codes of conduct currently circulating but as the regulations have not yet been published, it is not yet possible to draft code provisions which reflect the definition of DPIs. It is however possible to give an indicative view of what the Council might consider appropriate to include in the code in respect of

the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests.

The Council has the option of revising its existing *Code of Conduct for Members and Co-opted Members* rather than adopting a completely new code, and it is suggested that this is done, at least in the short term, so that a more considered view can be taken as the position becomes clearer.

The Act prohibits members with a DPI from participating in council business, although it does not prohibit them from remaining in the room providing they take no part in the discussion on that item and do not vote. It is suggested however, that the Council amend standing order 28 (declarations of interest) by requiring a member with a DPI to withdraw from the meeting room including the public gallery whilst that item of business is considered. Standing order 28 might be amended by inserting a new sub-paragraph (4) as follows:

“28 (4) A member with a disclosable pecuniary interest in an item of business must not take part in the discussion or vote on that item and must withdraw from the meeting room including the public gallery before the item is considered by the meeting”.

8. Finance

There are no significant financial implications.

9 Risks and Uncertainties

Failure to have a code in place that meets the requirements of Chapter 7 (standards) of the Localism Act 2011 may put the Council in breach of its obligations under section 27 (duty to promote and maintain high standards of conduct) of the Localism Act 2011.

10 Policy and Performance Agenda Implications

None

11 Background Papers and Consultation

Localism Act 2011

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APPENDIX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.