

Rottingdean Parish Council	
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Subject:	Standards Update	
Date of Meeting:	6 August 2012	
Report of:	Monitoring Officer of Brighton & Hove City Council	
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1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Localism Act 2011 makes fundamental changes to the regulation of standards of conduct for elected Members. Although these changes came into force was on 1 July 2012, regulations detailing the commencement of the new arrangements and the registration of interests for Members and co-opted Members were not made until 8th June 2012, presenting local authorities with a difficult timetable for implementation.
- 1.2 At its meeting on 26 June 2012, the Audit & Standards Committee of Brighton & Hove City Council (the 'City Council') recommended (i) the adoption of a new code of conduct for its members, and (ii) a new complaints procedure for dealing with allegations that a member has failed to comply with the code.
- 1.3 These recommendations, together with the proposed wording of the new code and complaints procedure, were put to a meeting of the full City Council on 19 July 2012 and both were approved.
- 1.4 The Audit & Standards Committee instructed the City Council Monitoring Officer to consult with Rottingdean Parish Council (the 'Parish Council') and report back with details of the code of conduct they had adopted under the new standards regime, and the arrangements made for the register of interests of members of the Parish Council.
- 1.5 This report updates the Parish Council on the requirements of the new regime, and proposes a new code of conduct for Members and a new complaints procedure, based on the requirements of the Localism Act and the new Regulations.

2. Recommendations

It is recommended that the Parish Council:

- 2.1 Adopts the new Code of Conduct for Parish Council Members, as set out at **Appendix 1**;
- 2.2 Agrees to publicise its adoption of the new code on the Parish Council website;
- 2.3 Notes the simplified Complaints Procedure as set out at **Appendix 2**;
- 2.4 Agrees the revised wording of standing orders 38-40 to reflect the new regime, as set out at **Appendix 3**;
- 2.5 Notes the requirement to publish its register of interests on the Parish Council website, on receipt of relevant data from the Monitoring Officer;
- 2.6 Ensures that each of its members completes the declaration of interests set out at **Appendix 4** and returns it to the Monitoring Officer, via the Clerk, by 31 August 2012.

3. Code of Conduct

- 3.1 Under the Localism Act 2011 ('the Act'), the Parish Council must adopt a code dealing with the conduct that is expected of members and co-opted members of the Parish Council when they are acting in that capacity.
- 3.2 The Parish Council's new code of conduct must, when viewed as a whole, be consistent with the following seven principles:-
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 3.3 The Parish Council is free to decide its own code. It has the option of adopting the same code of conduct adopted by the City Council or developing and adopting a different code, subject to complying with the above principles and the statutory requirements regarding disclosable pecuniary interests.
- 3.4 Historically, the Parish Council code has mirrored that of the City Council, with minor variations to reflect the different range of functions performed by the Parish Council, and it is recommended that this approach be taken again in the interests of consistency. Doing so also ensures that issues relating to the code considered from time to time by the City Council's Audit & Standards Committee and Standards Panels apply equally to the Parish Council.

- 3.5 A new code of conduct for the City Council was recommended by the Audit & Standards Committee on 26 June 2012 and adopted by the City Council on 19 July 2012. The wording of this code, again adapted to render it specific to the Parish Council, is attached at **Appendix 1**.
- 3.6 The key change from the current code that all Members will need to be aware of relates to the disclosure of interests in Part 2 of the Code. The concepts of personal and prejudicial interests are replaced with 'Disclosable Pecuniary Interests' (DPIs) and 'Other Disclosable Interests'.
- 3.7 DPIs are defined in the Disclosable Pecuniary Interests Regulations 2012, and a member's failure to comply with the requirements is a criminal offence. A DPI must be registered or declared at the meeting and a Member may not participate in any discussion or vote taken on that matter at a meeting.
- 3.8 The categories of DPI included in the City Council's new code (at Part 2 Section 8) are taken directly from the new Regulations to ensure clarity for Members in relation to their legal obligations.
- 3.7 In order to ensure that there are no allegations of bias or undue influence, the City Council has amended its Standing Orders to provide that a Member with a DPI leave the room for that item; a suffix to paragraph 10 of the City Council's code reflects this provision. Accordingly, it is recommended that the Parish Council make a corresponding amendment to its own Standing Orders 38-40; the revised text is produced at Appendix 3, for adoption.
- 3.8 The Act requires local authorities, including parish councils, to make provision in its code and its register for both pecuniary and non-pecuniary interests. The latter category is not further defined in law, and the City Council has chosen to classify these as 'Other Disclosable Interests'. These are interests that are not DPIs and do not therefore carry criminal sanctions. This category broadly picks up what was covered by the old category of personal interests, but with a narrower scope to be consistent with the new approach to the Code. 'Other disclosable interests' must be disclosed at the meeting but there is no requirement not to participate or to leave the meeting.
- 3.9 The Parish Council has the option of replicating the City Council's category of 'other disclosable interests' in its code and register, or defining its own category of non-pecuniary interests. Appendices 1 and 4 have been drafted on the assumption that the Parish Council will follow the form adopted by the City Council. If the Parish Council wish to devise its own category of non-pecuniary interests, these appendices will need amending accordingly.
- 3.10 Throughout the new disclosure of interests provisions, the definition of a 'relevant person' is much narrower than in the previous code and applies only to a spouse or civil partner or someone a member is living with as if they are a spouse or civil partner. (The previous provisions applied to any family member or 'close associate' and their employers).

3.11 Dealing with misconduct complaints

- 3.12 The Act requires the City Council to make arrangements for investigating and deciding on complaints about a breach of the code by City Council and Parish Council members.
- 3.13 The City Council has replaced the old process, which was long-winded and cumbersome, with a simplified and shortened version which, among other benefits, enables the Monitoring Officer, in consultation with the Independent Person, to make an initial consideration as to whether a complaint requires investigation.
- 3.14 On 19th July 2012 the City Council adopted the revised complaints procedure and associated principles set out at Appendix 2, which the Parish Council is invited to note.
- 3.16 City Council officers are developing the procedures that accompany the new complaints process, and these will be presented to the Audit & Standards Committee in September 2012, for consideration.
- 3.17 If a complaint is made about an alleged breach of the code by a Member or co-opted member of the Parish Council, it is the responsibility of the City Council to investigate and determine the complaint. Where a breach is determined to have occurred, it is for the Parish Council to decide whether to take action and what action to take.
- 3.18 Where a failure is found, the range of actions the Parish Council can take is limited and must be directed at securing the continuing ability of the Parish Council to discharge its functions effectively. In practice, this can include the following:-
- Formal letter to the Councillor found to have breached the Code;
 - Press release/other publicity.
- 3.19 A failure to register or declare, without reasonable excuse, Disclosable Pecuniary Interests is a criminal offence under the Act and a matter for police investigation rather than for the City Council's complaints process. The Magistrates Court is empowered, on conviction, to impose a maximum level 5 fine (currently £5,000) and an order disqualifying the person from being a Member of the relevant authority for up to five years.

3.20 Independent Person

- 3.21 The Act requires the City Council to appoint at least one independent person to advise the authority in relation to complaints of a breach of the code. In addition, a member or co-opted member of the Parish Council whose conduct is the subject of a complaint relating to the code, may seek the view of the independent person.

3.22 The Monitoring Officer is currently advertising a vacancy for the appointment of two independent persons.

3.23 Register of Interests

3.24 It is the responsibility of the Monitoring Officer to establish and maintain a register of interests of members and co-opted members of the Parish Council.

3.25 To enable him to comply, members of the Parish Council are requested to complete the declaration of interests form at Appendix 4 and send it to the Monitoring Officer by 31st August 2012.

3.26 On receipt of completed declarations, the Monitoring Officer must:

- (i) make a copy of the Parish Council's register of interests available for inspection at a location in Brighton & Hove at all reasonable hours; and
- (ii) publish the register on the City Council's website.

3.27 The Parish Council must publish its register of interests on its own website, using data made available to it by the Monitoring Officer.

3.28 Publicity

3.29 The Act requires the Parish Council to publicise its adoption of a new code "in such manner as it considers is likely to bring the adoption to the attention of persons who live in its area".

3.30 The City Council will publicise the adoption on its website (www.brighton-hove.gov.uk), but it is recommended that the Parish Council does so on its website too.

3.31 Audit & Standards Committee

3.32 One of the functions of the City Council's Audit & Standards Committee is to advise both the City Council and Parish Council on their codes of conduct and the arrangements for investigating and determining complaints about a breach of these codes. Whenever the Committee considers an item of relevance to the Parish Council, a member of the Parish Council is welcome to attend the meeting, and may advise the Committee at the invitation of the Chairman.

3.33 Details of the Committee's meeting dates and agendas can be found on the City Council's website via this link:
<http://present.brighton-hove.gov.uk/ieListMeetings.aspx?CId=699&Year=2012>

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Code of Conduct
2. Complaints Procedure and General Principles
3. Revised wording for Standing Orders 38-40
4. Declaration of interests form