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<b>PART B:</b>	<b>RECOMMENDATIONS TO COUNCIL</b>
<b>REPORT TO:</b>	<b>OVERVIEW AND SCRUTINY COMMITTEE</b>
<b>DATE:</b>	<b>5 JULY 2012</b>
<b>REPORT OF THE:</b>	<b>COUNCIL SOLICITOR AND MONITORING OFFICER ANTHONY WINSHIP</b>
<b>TITLE OF REPORT:</b>	<b>STANDARDS ROLE FOR OVERVIEW AND SCRUTINY COMMITTEE AND STANDARDS ISSUES</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To inform Members of the Committee of the new Standards Role for Overview and Scrutiny Committee which is intended to promote and maintain high ethical standards within the Council and deal with Standards related issues.

### **2.0 RECOMMENDATIONS**

- 2.1 That members note Minute No 127 of the Annual Council meeting on 17 May 2012 attached as Annex 1 which allocates the ethical standards function to the Overview and Scrutiny Committee acting as a Corporate Governance Committee;
- 2.2 That members recommend to Council to:-
- (i) Approve the terms of reference for the Overview and Scrutiny Committee acting as a Corporate Governance Committee as attached at Annex 2;
  - (ii) Appoint independent persons;
  - (iii) That the Monitoring Officer ensures that all Members are informed of their duty to register their interests;
  - (iv) That the Monitoring Officer prepare and maintain new Registers of Interests for the Council and all Parish and Town Councils within the District together with the Code of Conduct adopted by each Parish or Town Council and ensure that they are available for public inspection as required by the Localism Act 2011;
  - (v) That the Register of Members' Financial and Other Interests form attached as Annex 3 be approved; and

- (vi) That the Monitoring Officer be authorised to arrange training for Members on Standards issues.

### **3.0 REASON FOR RECOMMENDATIONS**

- 3.1 It is important for the Overview and Scrutiny Committee to note and approve the recommendations to maintain and improve good corporate governance.

### **4.0 SIGNIFICANT RISKS**

- 4.1 No significant risks have been identified in preparing this report – see Risk Matrix (Annex A).
- 4.2 It is helpful for the Monitoring Officer and for the Overview and Scrutiny Committee, in performing their functions, to note and approve the recommendations which is instrumental in the drive to maintain high standards generally. This reduces the risk of the breakdown of standards with consequential effects upon the reputation of an authority and the services it delivers.

## **REPORT**

### **5.0 BACKGROUND AND INTRODUCTION**

- 5.1 In the wake of the provisions in the Localism Act 2011 which has dismantled the Local Government Act 2000 local government standards regime, the Annual Meeting of Council on 17 May 2012 adopted a new Code of Conduct (with the exception of the part dealing with interests) and arrangements for dealing with allegations of misconduct by Members.
- 5.2 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (the 2012 Regulations) were published on Friday, 8 June 2012. These regulations define Disclosable Pecuniary Interests.
- 5.3 In a letter to the Chief Executive, dated 8 June 2012, the Government confirmed that the Localism Act 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order 2012 had now been made bringing the new arrangements for the standards and conduct of Members into force on 1 July 2012.
- 5.4 The relatively late production of the 2012 Regulations (Friday evening on 8 June 2012) has not been helpful in implementing the new standards regime.

### **6.0 POLICY CONTEXT**

- 6.1 The adoption of standards procedures contributes positively to the Council's Corporate Governance arrangements by ensuring that the Council maintains high standards of conduct.

### **7.0 REPORT DETAILS**

#### **Terms of Reference of the Corporate Governance Standards Committee**

- 7.1 Members are advised that it is necessary to consider an addition to the Terms of Reference of the Overview and Scrutiny Committee to discharge the new standards role allocated to the Committee.

- 7.2 Members are requested to consider recommending Council to adopt the revised Terms of Reference for the Overview and Scrutiny acting as a Corporate Governance Standards Committee and Sub-Committee as attached at Annex 2.

### **Register of Interests**

- 7.3 The Monitoring Officer is responsible for ensuring that each authority's register (ie District, Parish and Town Councils) is kept at the principal authority's offices and is available for inspection within the District Council's (principal authority). Copies of the District Council's Register of Interests and those of every Parish and Town Council must be published on the District Council's website and, if the Parish/Town Council has a website, then the relevant Register must also be available on that website. The Monitoring Officer must provide the relevant date and information to the Town and Parish Council. A template form for the registration of Member Interests is attached at Annex 3.

### **Disclosable Pecuniary Interests (DPI)**

- 7.4 Every elected or co-opted Member is required to notify the Monitoring Officer within 28 days of being elected or co-opted onto the authority of all current DPIs and update the register within 28 days of being re-elected or re-appointed. Failure to register or disclose a disclosable pecuniary interest will be punishable by a fine of up to Level 5 (£5,000). In addition the magistrates court may on conviction disqualify a Member from being a Member of a Council or any other relevant authority for up to five years. Breaches of the Code of Conduct in relation to failure or declare other pecuniary interests and non-pecuniary interests can only be dealt with as a breach of the Code. Prosecutions for a breach of the legislation relating to disclosable pecuniary interests may only be brought by or on behalf of the Director of Public Prosecutions. The DPP is unlikely to authorise a prosecution unless the breach of the legislation is considered serious. The provision under which a Member who fails to make such registration automatically ceases to be a Member is repealed.

### **Disclosure of Interests and Participation**

- 7.5 A Member has a duty to disclose whenever they attend any meetings of the Council, or Committee, or item to be dealt with under individual powers, in which they have a "disclosable pecuniary interest". In a change from the current requirements, where the interest is already on the Register, or the Monitoring Officer has been notified of the interest, the Member is under no obligation to disclose the interest at the meeting. If the DPI is not currently on the register, or has not been notified already to the Monitoring Officer, then the Member must notify it to the Monitoring Officer within 28 days so that it can be included on the Register.
- 7.6 If a Member has a DPI in any matter, he/she must not participate in any discussion of the matter at the meeting. The Act does not define "discussion". It is unclear if this precludes making representations as currently permitted under paragraph 12(2) of the 2007 Model Code of Conduct. Members must not participate in any vote on the matter. There is no requirement for Members to leave the room, as required under the 2007 Code of Conduct. However, the Member can seek a dispensation which would allow him/her to speak and/or vote as necessary.

### **Failure to Comply**

- 7.7 Failure to comply with the requirements (paragraph 7.5 and 7.6) becomes a criminal offence, rather than leading to sanctions. The Council's Code of Conduct must make "appropriate" provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of the Code of Conduct but not a criminal offence. The requirement to withdraw from the meeting room can be covered by Standing Orders, which would be neither a criminal offence

nor a breach of the Code of Conduct, although the meeting could vote to exclude the Member. It is recommended, therefore, that the Council amends Standing Orders to include a provision requiring Members to withdraw from the room when they have a DPI in an item under discussion, which will provide transparency and openness in the decision making process.

### **Sensitive Interests**

- 7.8 The provision introduced in the 2008 Code is re-enacted, enabling a Member to ask the Monitoring Officer to exclude from the public register any details which, if disclosed, might lead to a threat of violence or intimidation to the Member or any person in the Member's household. If the Monitoring Officer agrees, then this Member will only be required to recite at the meeting that he/she has a "disclosable pecuniary interest", rather than giving details of that interest, and the detail can be excluded from the published version of the Register.

### **Dispensations**

- 7.9 The Act significantly amends the provisions on dispensations. Currently a Member who has a prejudicial interest may apply to the Standards Committee for a dispensation on two grounds –

- § That at least half of the Members of a decision-making body have prejudicial interests (this is generally unworkable as it is often only at the meeting that this would become known).
- § That so many Members of one political party have prejudicial interests in the matter that it would upset the result of the vote on the matter.

- 7.10 In future, a dispensation will also be able to be granted in the following circumstances:

- § That so many Members of the decision-making body have DPis in a matter that it would "impede the transaction of the business" (inquarete).
- § That without the dispensation, the representation of different political groups on the decision-making body would be so upset so as to alter the outcome of any vote on the matter.
- § That the authority considers that the dispensation is in the interests of persons living in the authority's area.
- § That, without a dispensation, no Member of the Committee would be able to participate on this matter.
- § That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of dispensation must specify how long it lasts for, up to a maximum of four years.

- 7.11 The Act gives discretion for dispensations to be delegated, which would enable requests to be dealt with "at the door to the meeting" if necessary.

### **Independent Persons**

- 7.12 The Council must include at least one Independent Person. In the Commencement Order the Government have provided for transitional arrangements enabling a local authority to appoint a person as Independent Person who has been an Independent Person on the Standards Committee within the last five years ending on 30 June 2012, so long as they are not a Member or co-opted Member of the Standards

Committee of the relevant authority on 1 July 2012. Such appointment will only apply in relation to appointments made before 1 July 2013.

- 7.13 The functions of the Independent Person are that they must be consulted by the Authority before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides to take action in respect of that Member. They may also be consulted by the authority in respect of a standards complaint at any other stage (for example on receipt of the complaint). Finally they may be consulted by any Member or co-opted Member of the District, Parish or Town Council against whom a complaint is made.

## **8.0 IMPLICATIONS**

- 8.1 No significant implications have been identified in preparing this report.

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### **Background Papers:**

Localism Act 2011  
The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012  
'The Localism Act 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order 2012'

### **Background Papers are available for inspection at:**

Ryedale District Council Offices

## STANDARDS ROLE FOR OVERVIEW AND SCRUTINY COMMITTEE AND STANDARDS ISSUES - ANNEX A

Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
The Committee fails to have due regard to new developments and good practice.	The risk over time of the breakdown of standards with consequential effects upon the reputation of an authority.	2	B	There is no mitigation in this case	2	B

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster

ANNEX A

## **Minute No. 127 of the Annual Council Meeting held on the 17 May 2012.**

### **127. The Localism Act 2011 – The Amended Local Ethical Framework**

It was moved by Councillor Knaggs and seconded by Councillor Cussons that the following recommendations from paragraph 2 a-p of minute 20 of the Standards Committee meeting on 3 May 2012 be approved and adopted:

2. That Full Council be recommended that:
  - a) The Authority's duty to promote and maintain high standards of conduct be discharged as listed below and from time to time in such other ways as the Monitoring Officer, in consultation with any Standards Committee established by the Authority, may deem appropriate:-
    - i. Appoint a non-statutory Standards Committee.
    - ii. Adopt new/revise existing ethical statements.
    - iii. Continue to promote ethical issues through planned and monitored Member training, including Member induction training.
    - iv. Produce Standards Bulletins.
    - v. Monitor wider policies, protocols and indicators which point to the ethical health of the Authority.
    - vi. Use of the Authority's website to promote the standards regime ultimately put in place.
    - vii. Publicise when the new/revised Code and supporting standards regime is established by the Authority and from time to time as appropriate.
    - viii. Work together with neighbouring authorities, where possible and appropriate, in order to discharge the statutory duty.
  - b) The Council establish a politically balanced Standards Committee, meeting not less than twice per annum, with a panel of Members from the Committee meeting on an ad hoc basis to deal with any alleged breach of the new Members' Code of Conduct (with effect from 1 July 2012).
  - c) The draft new Members' Code of Conduct for the Council attached at Appendix 3 to the report, as amended, be approved and effective from 1 July 2012; and that such Code be revised as necessary in the future once the relevant regulations are in force regarding the new statutory interests regime.
  - d) Under the new standards regime effective from 1 July 2012, Members and any co-opted Members should be required to sign an undertaking to comply with the Code before acting in such capacity.
  - e) The Council publicise its adoption of the new Code on the Council's website and Intranet and in any other ways the Standards Committee deems appropriate.
  - f) Provision be included in the Council Procedure Rules requiring Members to withdraw from the meeting room when they have a disclosable pecuniary interest.
  - g) The complaint handling procedure as amended attached to the report at Appendix 6 be approved and effective from 1 July 2012.
  - h) Two Independent Persons be appointed, to be involved on a rota basis;

- i) The Independent Persons be invited to meetings of the new Standards Committee but not formally co-opted on to the new Committee.
- j) The Independent Persons be paid expenses in accordance with the Council's Members' Allowances Scheme and that this be considered by the Independent Remuneration Panel in due course.
- k) The Independent Person vacancies be advertised on the Council's website and through a press release via the Council's arrangements with the local press (and in any other way the Council considers appropriate) and that the Chairman of the Standards Committee with the Monitoring Officer should undertake short-listing of applicants.
- l) All functions in respect of the publication of Standards Committee Independent Person vacancies be delegated to the Standards Committee and that the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee.
- m) The power to assist in the recruitment of Standards Committee Independent Persons (but not to approve individual appointments) be delegated to the Standards Committee.
- n) The Monitoring Officer be designated as Proper Officer to receive written requests for a dispensation by Members and voting co-opted Members, effective from 1 July 2012.
- o) The power to grant dispensations to Members and voting co-opted Members be delegated to the Standards Committee, after consultation with the Independent Person; and that power be delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation (all with effect from 1 July 2012).
- p) That the Council Solicitor be authorised to carry out any consequential amendments to the Council's Constitution.

An amendment was moved by Councillor Knaggs and seconded by Councillor Cussons: To delete paragraph 2 a) i. and 2 b) and replace with "The functions of the Standards Committee shall be performed by the Overview and Scrutiny Committee meeting as a corporate governance committee. Officers are authorised to make such resulting amendments to other recommendations as are necessary."

Upon being put to the vote the amendment was carried.

Councillor Raper then moved and Councillor Mrs Knaggs seconded a further amendment: "That the template Code of Conduct on pages 51-52 be adopted as our Code of Conduct."

Upon being put to the vote the further amendment was carried.

Upon being put to the vote the substantive motion was then carried.

### **Resolved**

That Full Council approve:



- a) The Authority's duty to promote and maintain high standards of conduct be discharged as listed below and from time to time in such other ways as the Monitoring Officer, in consultation with the Overview and Scrutiny Committee established by the Authority, may deem appropriate:-
- i. The functions of the Standards Committee shall be performed by the Overview and Scrutiny Committee meeting as a corporate governance committee. Officers are authorised to make such resulting amendments to other recommendations as are necessary.
  - ii. Adopt new/revise existing ethical statements.
  - iii. Continue to promote ethical issues through planned and monitored Member training, including Member induction training.
  - iv. Produce Standards Bulletins.
  - v. Monitor wider policies, protocols and indicators which point to the ethical health of the Authority.
  - vi. Use of the Authority's website to promote the standards regime ultimately put in place.
  - vii. Publicise when the new/revised Code and supporting standards regime is established by the Authority and from time to time as appropriate.
  - viii. Work together with neighbouring authorities, where possible and appropriate, in order to discharge the statutory duty.
- b) That the template Code of Conduct on pages 51-52 of the agenda be adopted as the Code of Conduct for Members of Ryedale District Council and any co-opted Members with effect from 1 July 2012; and that such Code be revised as necessary in the future once the relevant regulations are in force regarding the new statutory interests regime;
- c) Under the new standards regime effective from 1 July 2012, Members and any co-opted Members should be required to sign an undertaking to comply with the Code before acting in such capacity.
- d) The Council publicise its adoption of the new Code on the Council's website and Intranet and in any other ways the Overview and Scrutiny Committee deems appropriate.
- e) Provision be included in the Council Procedure Rules requiring Members to withdraw from the meeting room when they have a disclosable pecuniary interest.
- f) The complaint handling procedure as amended attached to the report at Appendix 6 be approved and effective from 1 July 2012.
- g) Two Independent Persons be appointed, to be involved on a rota basis;
- h) The Independent Persons be invited to meetings of the Overview and Scrutiny Committee but not formally co-opted on to the Committee.
- i) The Independent Persons be paid expenses in accordance with the Council's Members' Allowances Scheme and that this be considered by the Independent Remuneration Panel in due course.
- j) The Independent Person vacancies be advertised on the Council's website and through a press release via the Council's arrangements with the local press (and in any other way the Council considers appropriate) and that the Chairman of the Overview and Scrutiny Committee with the Monitoring Officer should undertake short-listing of applicants.

- k) All functions in respect of the publication of Overview and Scrutiny Committee Independent Person vacancies be delegated to the Overview and Scrutiny Committee and that the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee.
- l) The power to assist in the recruitment of Overview and Scrutiny Committee Independent Persons (but not to approve individual appointments) be delegated to the Overview and Scrutiny Committee.
- m) The Monitoring Officer be designated as Proper Officer to receive written requests for a dispensation by Members and voting co-opted Members, effective from 1 July 2012.
- n) The power to grant dispensations to Members and voting co-opted Members be delegated to the Overview and Scrutiny Committee, after consultation with the Independent Person; and that power be delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that an Overview and Scrutiny Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Overview and Scrutiny Committee, all of whom consent to the granting of the dispensation (all with effect from 1 July 2012).
- o) That the Council Solicitor be authorised to carry out any consequential amendments to the Council's Constitution.

### **TERMS OF REFERENCE: OVERVIEW AND SCRUTINY ACTING AS A CORPORATE GOVERNANCE STANDARDS COMMITTEE**

The Overview and Scrutiny Committee has been given delegated authority to exercise the Corporate Governance Standards Committee role for Ryedale District Council. References in these Terms of Reference to the Corporate Governance Standards Committee is a reference to the Overview and Scrutiny Committee exercising the Corporate Governance Standards Committee role for Ryedale District Council.

#### **MEMBERSHIP**

All the Members of the Overview and Scrutiny Committee.

#### **FREQUENCY OF MEETINGS:**

Corporate Governance Standards Committee agenda items will be a standing item on the Overview and Scrutiny Committee agenda on at least two occasions each year.

#### **FUNCTIONS**

The Corporate Governance Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives and officers.
- (b) Assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members' and officers' Codes of Conduct.
- (d) Monitoring the operation of the Members' and Officers' Codes of Conduct.
- (e) Advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct.
- (f) To consider and determine allegations that individual Members have breached the Members' Code of Conduct.
- (g) Taking all decisions that are necessary to deal with individual cases of alleged breaches of the Code.
- (h) The exercise of (f) and (g) above in relation to the Town or Parish Councils wholly or mainly in the Ryedale district and the Members of those Councils; and
- (i) Reviewing and monitoring the Council's response to:
  - (i) Probity and standards issues arising from internal audit functions and reports of the external auditor.

- (ii) Corporate Governance issues, including overview of whistle blowing and complaints handling.
- (iii) Local Ombudsman's investigations.
- (j) Any other functions allocated to the Corporate Governance Standards Committee by Council under any enactment from time to time.

## **Terms of Reference of the Corporate Governance Standards Sub-Committee**

### **1. Terms of Reference**

- (a) The Corporate Governance Standards Sub-Committee is established to determine complaints that a Member of Ryedale District Council or a Town or Parish Council within the Ryedale district has failed, or may have failed, to comply with that Authority's Code of Conduct.
- (b) Upon completion of an investigation by the Investigating Officer, the Sub-Committee shall be responsible for determining whether:
  - (i) It accepts the Investigating Officer's finding of no failure to observe the Code of Conduct.
  - (ii) It accepts the Investigation Officer's finding of a failure to observe the Code of Conduct.
- (c) Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b), the Sub-Committee shall state its reasons for that decision.

### **2. Sanctions**

In the event that the Corporate Governance Standards Sub-Committee makes a finding of a failure to observe the Code of Conduct it may impose any or all of the following sanctions:

- (a) Issue a letter of censure to the Member and where appropriate require an apology to be given to the complainant.
- (b) Recommend to the Member's Group Leader that he/she be removed from any or all Committees or Sub-Committees of the Council.
- (c) Instruct the Monitoring Officer to arrange training for the Member.

The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

### **3. Composition of the Corporate Governance Standards Sub-Committee**

- (i) The Corporate Governance Standards Sub-Committee shall comprise three Members of the Overview and Scrutiny Committee.

- (ii) Political proportionality is disapplied for the Corporate Governance Standards Sub-Committee.

4. **Quorum**

The quorum for a meeting of the Sub-Committee shall be three Members.

5. **Frequency of Meetings**

The Sub-Committee shall only meet as and when required to hear and determine any allegation(s) against an elected or co-opted Member of the Council and Town and Parish Councils.