

# REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** HEAD OF LEGAL AND DEMOCRATIC SERVICES

**REPORT NO:** LDS075

**DATE:** 24<sup>TH</sup> SEPTEMBER 2012

<b>TITLE:</b>	AMENDMENTS TO THE CONSTITUTION – LOCALISM ACT - MEMBERS CODE OF CONDUCT AND INTERESTS	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Constitutional change	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles Head of Legal and Democratic Services <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel:01476 406105	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: Not applicable
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Report to Council – LDS072- Localism Act – Members' Code of Conduct and Interests. Minute no.25 – Council meeting 12.7.12 <a href="http://moderngov.southkesteven.gov.uk">http://moderngov.southkesteven.gov.uk</a>	

## 1. RECOMMENDATIONS

It is recommended the Constitution Committee note the changes to the Constitution following the decision of Council at its meeting on the 12<sup>th</sup> July 2012 to adopt a new Members' Code of Conduct and Standards regime as set out in the details of this report.

## 2. PURPOSE OF THE REPORT

The purpose of the report is to confirm the amendments as approved by Council at its meeting on the 12<sup>th</sup> July 2012 relating to the new Members Code of Conduct and changes to the Standards regime introduced by the Localism Act 2012.

## 3. DETAILS OF REPORT

At its meeting on the 12<sup>th</sup> July, the Council agreed recommendations as detailed at Appendix 1 attached to this report. Item number 13 of Appendix 1 confirms Council's approval to the required amendments to the Constitution to incorporate the new Code of Conduct and the new procedure for dealing with complaints made about District, Town and Parish Councillors. This report clarifies those amendments for noting.

The amendments are as follows (page numbers refers to page numbering in the Constitution) :

- Page 5 - delete reference to the Standards Committee.
- Page 10 – delete Article 10 and renumber subsequent Articles on pages 11, 12 and 13.
- Page 23 – delete reference to Standards Committee.
- Page 26-27 – delete the contents of the Members' Code of Conduct and replace with new contents:
  - Principles
  - Registration of Interests
  - Disclosure of Interests
  - Sensitive Interests
  - Attendance at meetings
  - Disclosure of Gifts and Hospitality
- Page 32 – delete reference to the Standards Committee in reference to “how the council operates”
- Page 34 – delete reference to Standards Committee at bullet point 7
- Page 35 – delete reference to Standards Committee.
- Page 40 – delete reference to the Standards Board for England.
- Page 49,50,51and 52 – delete all relating to Standards Committee
- Page 52 to 72 and throughout the Constitution – renumber Article numbers and tie in reference in Article numbers to the correct Article.
- Page 62.1 (d) **Supporting the Members Code of Conduct**
  - The monitoring officer will assist Members with the promotion and maintenance of high standards of conduct.
  - The monitoring officer will receive all complaints relating to District Councillors and assist Parish and Town Councils with complaints relating ot he Members' Code of Conduct.

Delete (e) **Receiving reports.**

The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.

Delete (f)i and replace with - complaints relating to the Members' Code of Conduct where investigation is required by the monitoring officer or the Independent Person appointed by the Council for such purposes.

- Page 70 - Article 18 - **Review and Revision of the Constitution** – delete reference to the Standards Committee.
- Page 82 – include under Review Board:
  3. Members' Code of Conduct – to receive reports on investigations carried out into alleged failure to comply with the Members' Code of Conduct;  
To consider whether a complaint should be investigated as required by the monitoring officer;  
Determine the outcome of investigations by hearing reports of investigations, the evidence of the parties involved and any other evidence available to the Board.
- Page 83 – delete reference to the Standards Committee – whole page – renumber pages.
- Page 102 – Head of Legal and Democratic Services (Monitoring Officer) – add paragraph 5, 6 and 7:

After consultation with the Independent Person or reserve, to determine whether a complaint merits formal investigation and to arrange such investigation.

To receive complaints of failure to comply with the Members' Code of Conduct by district, town and parish councillors, with authority to delegate the function of dealing with the complaints relating to parish and town councillors to the relevant town or parish council where appropriate.

To consider and determine applications for dispensations in accordance with the legislation relating to dispensations to allow Members to participate and vote in any decision where they have an interest. In the event that the Monitoring Officer is unable to determine such an application for dispensation, the Monitoring Officer is authorised to refer that application to the Review Board for consideration and determination.
- Page 106 Scheme of Delegation – List of Proper Officers. Refer to disclosable pecuniary interests and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Page 137 Council Procedure Rules – paragraph 21.1 – add A Member who has disclosed a disclosable pecuniary interest or other interest in any item on the agenda of a meeting must leave the meeting during the consideration of that item to which the interest relates, take no part in the debate and not vote on that item.
- Page 147 Meaning of Exempt Information – amend to read – Categories 8—10 relate to the Review Board when dealing with reports on failure to comply with the Members' Code of Conduct.
- Page 153 Exempt information – clarify exemptions 8,9 and 10 which related to Standards Committees – now relate to the Review Board

when considering reports on investigations of complaints about Members.

- Page 173 Executive Procedure Rules – paragraph 1.5 – delete reference to “prejudicial”
- Page 196 – Financial Regulations – delete reference to the Standards Committee.
- Page 251 – 289 – delete existing code and replace with new Members’ Code of Conduct.

#### **4. OTHER OPTIONS CONSIDERED**

No other options have been considered in respect of these amendments which are reported for note only.

#### **5. RESOURCE IMPLICATIONS**

There are no resource implications relating to the proposal

#### **6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
No significant risks	

#### **7. ISSUES ARISING FROM IMPACT ANALYSIS**

Equality impact analysis not required

#### **8. CRIME AND DISORDER IMPLICATIONS**

No crime and disorder implications

#### **9. COMMENTS OF FINANCIAL SERVICES**

There are no financial implications relating to the amendments.

#### **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

The report is made for note only to show the changes made to the Constitution as required by the Localism Act 2011 and approved by Council at its meeting on the 12<sup>th</sup> July 2012.

#### **11. COMMENTS OF OTHER RELEVANT SERVICES**

None relevant

Appendix 1 - extract of minutes of the Council meeting 12.7.12