

STANDARDS COMMITTEE	8 MARCH 2012
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REPORT ON THE LOCALISM ACT 2011 UPDATE RE NEW STANDARDS REGIME	NOT APPLICABLE	KAY LOVELADY	
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SUMMARY AND LINK TO CORPORATE PRIORITIES

This report describes the changes required as a result of the implementation of the Localism Act 2011. This report will be supported by a presentation at the Committee Meeting.

RECOMMENDATION

That Standards Committee should note the report/presentation and consider what steps should now be taken to address the issues raised.

DETAILS AND REASONING

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors as well as Parish Councillors. The new provisions take effect on the 1st July 2012 when the National Code of Conduct and the requirement to have a Standards Committee will be abolished. The Standards Board for England will cease to exist from the 31st March 2012.

Under the Act the Council now has a new duty to promote and maintain high standards of conduct for its members, co-opted members and parish councillors.

This Committee is asked to consider the changes and make recommendations on how the new regime might work at South Ribble Borough Council.

Code of Conduct

The Council must adopt a new Code of Conduct which must be approved at full Council. At this stage it is premature to prepare a Code as regulations are still awaited from Central Government.

The Council will have significant discretion as to what is included in the Code and concerns have been raised that this could lead to problems with both members and the public as each authority or parish council could have different rules and regulations. In order to address this situation The Association of Council Secretaries and Solicitors (ACSeS) have indicated that they will prepare a draft code which it is hoped each authority and Parish Council across the country will adopt to ensure consistency and to ease understanding for “dual hatted “members and the general public. It is hoped that the same Code is also adopted by County Councils.

The new Code must be consistent with the Nolan principles of: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. This is likely to follow what is contained in the current code.

Register of Interests

The Code must contain requirements for the registration and disclosure of “pecuniary” interests and “other” interests. Regulations will define what disclosable pecuniary interests are. The Council will have to decide what other interests must be disclosed and one suggestion could be that all personal interests which are currently required to be registered should continue to be so.

The Monitoring Officer is required to maintain a register of interests of members and Parish Councillors and the registers must be available for inspection at the Council Offices and on the Council's Website.

Members must register "disclosable pecuniary interests" within 28 days of adoption of the Code or becoming a member. .

Members with a "disclosable pecuniary interest" cannot speak or vote on a matter and must declare they have an interest (if registered) or that they have an interest and the nature of that interest (if not registered). If not already registered they must do so within 28 days of the meeting.

Failure to register will be a new criminal offence which could lead to a £5000 fine and/or disqualification from being a member

It is proposed that arrangements similar to what is in place at the moment are adopted. It is envisaged that it would be good practice (as now) for a member not only to declare that they have an interest, but if that interest is a "disclosable pecuniary interest" they should declare the interest then leave the room. This is important when considering public perception and maintains high standards of conduct, transparency and impartiality.

Standards Committee

Under the new provisions there is no requirement to have a standards committee. However, we will still need to deal with standards issues, complaints and possible hearings, so it is likely to remain convenient to have a Standards Committee. The Committee will exist to promote and maintain high standards of conduct by members and will adopt and operate arrangements for dealing with complaints of misconduct by members.

Any "new" standards committee:

- Must be politically proportionate
- Does not have to have independent members or parish representatives.
- Any parish or independent members can be non-voting co-optees only.
- Cannot have an independent Chair as there could be no chair's casting vote.

Independent Person

The Council must appoint at least one "independent person" (i.e somebody who is not a councillor or an employee) who:

- Must be consulted before the Council makes any finding that a member has failed to comply with the code of conduct and before the Council imposes any sanction for a breach of the code
- May be consulted by a member who is the subject of a misconduct complaint.

The Independent Person must be appointed at full Council following a process of public advertisement and application. The Independent Person can be paid expenses in connection with the duties of the appointment. The constitution of the interviewing panel will have to be determined at a later date after the decision on the scope of the role the Independent Person is finalised.

Unfortunately it appears that the independent members currently serving on standards committees cannot be appointed as Independent Persons. This represents a considerable loss of willing and experienced individuals.

Arrangements for dealing with complaints about Councillors

The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of the Code of Conduct both by District and Parish Councillors. Such arrangements will need to be fair, meeting the requirements of natural justice and be Human Rights Act compliant.

However, It is an opportunity to simplify the current arrangements and it will be necessary for Council to delegate appropriate powers to any Standards Committee and the Monitoring Officer.

It is envisaged that the Monitoring Officer will deal with the majority of complaints in consultation with third parties. One possible approach may be:

- All complaints about members to be considered initially by the Monitoring Officer
- If the complainant agrees, the Monitoring Officer to be able to resolve complaints informally if she considers it appropriate – possibly in consultation with the Independent Person
- If the complainant does not agree to the matter being dealt with informally or if the Monitoring Officer considers that informal resolution may be inappropriate the matter be referred to Standards Committee for determination
- In respect of complaints that are dealt with by a formal investigation The Standards Committee will make a decision on whether a breach of the code has occurred and if so what penalty shall be imposed (see below for possible options on penalties).

Sanctions

There are no statutory powers of sanction in the Localism Act and all powers to impose penalties must be delegated to the new Standards Committee by full Council.

Possible penalties include:

- Naming and shaming
- Recommendation to the relevant Group Leader to remove the member from Cabinet, Committees or Sub-Committee. The respective Group leaders will have a particularly important role in maintaining discipline under the new regime
- Training
- Removal from outside bodies/appointments
- Withdrawal of facilities (must be proportionate)
- Exclusion from Council premises (must be proportionate and the member must still be allowed access to Council and Committee Meetings)

Predetermination

When an allegation of bias, predetermination or otherwise is alleged the Localism Act states a member is not to be taken to have had a closed mind when making a decision just because:

- The member had previously done anything to indicate what view they took, or might take in relation to a matter, and
- The matter was relevant to the decision

This report will be supported by a presentation at the meeting following which the Committee is asked to consider, and comment upon, the issues arising and recommendations as a result of the introduction of the new standards regime.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

FINANCIAL	There are no direct financial implications at this stage except for the cost of advertising for the independent person and possible payment of expenses.
LEGAL	The Council is under a legal duty to comply with the requirements of the Localism Act 2011 and the regulations that will be published further to it.
RISK	<p>A failure to comply with the requirements of this Act and to deal with Standards issues in an effective way could lead to the Council's reputation being damaged and tarnished. We must ensure that the public continue to have confidence in the way the Council conducts its business.</p> <p>Given the limited timescales for implementation (currently 1st July 2012) it will be necessary for the Council to act quickly. Matters are not assisted by the fact that supporting regulations are unlikely to be published until March 2012 at the earliest and then only for consultation. Given most consultation processes take 6 – 8 weeks before a finalised version is available it may be difficult to meet the deadline for full Council on the 23rd May 2012. A special Standards Committee and Full Council meeting may be required.</p> <p>Problems may also arise if there is not sufficient interest in the role of Independent Person.</p> <p>The Council will need to:</p> <ol style="list-style-type: none"> 1. Adopt a Code of Conduct 2. Appoint an Independent Person 3. Revise the terms of reference for Standards Committee 4. Agree membership of the Standards Committee 5. Prepare a register of interests for members and Parish Councillors 6. Agree arrangements for dealing with complaints 7. Advise and train all members accordingly. <p>It is anticipated that the Council will be able to meet its obligations so the risk is considered small.</p>

OTHER (see below)

<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Efficiency Savings</i>	<i>Equality, Diversity and Community Cohesion</i>
<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>
<i>Respect Agenda</i>	<i>Staffing</i>	<i>Sustainability</i>	<i>Training and Development</i>

BACKGROUND DOCUMENTS

Localism Act 2011