

STANDARDS COMMITTEE	1 MAY 2012
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REPORT ON THE LOCALISM ACT 2011 – THE NEW STANDARDS REGIME	NOT APPLICABLE	KAY LOVELADY	4
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SUMMARY AND LINK TO CORPORATE PRIORITIES

This report follows on from the report presented to Committee on the 8th March 2012 and describes the changes required as a result of the implementation of the Localism Act 2011.

RECOMMENDATION

That Standards Committee should note the report, consider the proposals and make appropriate comments.

DETAILS AND REASONING

The Localism Act 2011 makes fundamental changes to the system of regulating standards of conduct for elected and co-opted Councillors as well as Parish Councillors. The date for implementation of the new provisions is currently listed for the 1st July 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.

At the meeting of the 8th March 2012 the Standards Committee considered the implementation of the new regime. Members expressed their views and it was considered that Standards Issues should continue to be dealt with by a Standards Committee and that it was important that parish council representatives continue to play an active role in ongoing standards issues. Suggestions arising from that meeting will be adopted where possible.

This Committee is asked to consider the changes (to date) and make recommendations to Council in light of the proposals, on how the new regime might work at South Ribble Borough Council.

Code of Conduct

Standards Committee are aware that South Ribble Borough Council must adopt a new Code of Conduct which must be approved at full Council. The new Code must be consistent with the Nolan principles of: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

At this stage it is premature to prepare a final Code as regulations are still awaited from Central Government. That said the Council must still have something in place to deal with standards issues after the 1st July 2012.

At the last meeting officers were awaiting sight of a proposed Code that could be adopted across the county. We have now received two codes; one from DCLG (Department of Communities and Local Government) and a second from LGA (Local Government Association). Unfortunately both

bodies could not come to an agreement and two Codes are now in existence neither of which are felt to be fit for purpose.

The situation is not assisted by the fact that, as mentioned above, the regulations defining "Disclosable Pecuniary Interests" (DPI) are not available. The Council is expected to have provision in the Code for the registration (and disclosure) of such interests along with other pecuniary interests and non-pecuniary interests. At this moment in time due to lack of information it would not be possible to do this.

Proposal 1

Amend the current code of conduct to comply with the legislation wherever that is possible, but leaving the bulk of the current code unchanged. Create an interim code that:

- a. will include the relevant Nolan Principles from the current Code of Conduct - these will now be 7 in number.**
- b. requires registration and disclosure of those interests which would today amount to personal and/or prejudicial interests, with the additional requirement to withdraw from meetings as required by the Act for DPIs.**
- c. the Director of Corporate Governance/Monitoring Officer ensure that all members are reminded of their duty to register interests and to publish the current register of members' interests and ensure that it is available for inspection as required by the Act.**

Proposal 2

That the interim code referred to above is further amended once the regulations that relate to member interests become available.

Proposal 3

The Director of Corporate Governance/Monitoring Officer ensures that all members are made aware of the new regulations (once they are available), that all members update the register with the newly defined interests, that the revised register of members interests is published on the Council's website and is available for inspection as required by the Act;

Standards Committee

Under the new provisions there will no longer be a legal requirement to have a standards committee. However, there will still be a need to deal with standards issues, complaints and possible hearings, so as discussed at the last meeting, it seems a convenient resolution to retain 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. It will be a normal Committee of Council, without the unique features which are conferred by the previous legislation. As a result:

- a. The composition of the Committee will be governed by proportionality**
- b. The current co-opted independent members will cease to hold office**
- c. The Act establishes a new category of Independent Person (see below) who must be consulted at various stages, but provides that current independent members cannot serve as Independent Persons for 5 years. The new Independent Person may be invited to attend meetings, but is unlikely to be co-opted onto the Committee.**

Proposal 4 – That the Council establish a new Standards Committee consisting of elected members of the Council appointed on a politically proportionate basis. Representatives from the Parish Councils will be asked to assist the Standards Committee where it is felt appropriate.

Independent Person

The Council must appoint at least one “independent person” (i.e. somebody who is not a councillor or an employee). 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 of the Independent Person is finalised.

Consideration has been given to sharing an Independent Person with other Lancashire Authorities but unfortunately this has not been possible and due to time pressures it is felt that it is not in South Ribble’s interest to delay the appointment any longer. That said this would not stop the same person being appointed by other authorities. Consideration has also been given to the number of independent persons that will be required. After considering the number of previous complaints and the now limited ability to deal with breaches of the Code of Conduct it is felt that the appointment of one independent person should be sufficient. If after the implementation of the provisions it is felt further independent persons are required other appointments could be referred to full Council.

The role of the Independent Person is likely to be less onerous than the existing role of an Independent Member. He/She is likely to be invited to meetings, but will not be a member of the Committee. He/She will need to be available to be consulted by members against whom complaints have been made and be involved in the local resolution of complaints. It is envisaged that the Independent Person will be paid relevant expenses.

Proposal 5

The Director of Corporate Governance/Monitoring Officer in consultation with Political Leaders make arrangements to advertise and select for the role of an Independent Person for Standards and subsequently to make a recommendation to Council for appointment.

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.

At the last meeting members expressed a wish to simplify procedures which will be taken on board where possible.

Proposal 6 – The Director of Corporate Governance/Monitoring Officer be instructed to prepare and submit to Council for approval “arrangements” it will adopt for dealing with standards complaints and for taking action where a member is found to have failed to comply with the Code of Conduct.

The following arrangements will be required:

- a. The Director of Corporate Governance/Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the member Code of Conduct;**

- b. The Director of Corporate Governance/Monitoring Officer be given delegated power to determine whether a complaint merits formal investigation and to arrange such investigation, if appropriate. The Director of Corporate Governance/Monitoring Officer be instructed to seek resolution of complaints without formal investigation wherever practicable. Where she feels that it is inappropriate for her to take a decision, she be given discretion to refer decisions on investigation to the Standards Committee.**
- c. Where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Director of Corporate Governance/Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant, the member concerned and to the Independent Person. In addition to report the findings to Standards Committee for information;**
- d. Where the investigation finds evidence of failure to comply with the Code of Conduct, the Director of Corporate Governance/Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution, where possible. In these circumstances a summary report for information will be provided to the Standards Committee. Where such local resolution is not appropriate or not possible, she is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;**
- e. Council delegate to the Hearings Panel of the Standards Committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct.**

Constitutional Changes

Several of the proposals mentioned above require Constitutional Changes. Further changes will be required once the supporting regulations are published. As it is currently unclear when the regulations will be finalised it may be necessary to implement changes at short notice. Provision will therefore be required to enable the Council to take steps to ensure compliance with the Localism Act.

Proposal 7 – The Director of Corporate Governance/Monitoring Officer in consultation with the Chair of Governance Committee be given delegated authority to make whatever constitutional changes are deemed necessary to ensure that the Council complies fully with the standards provisions of the Localism Act and any regulations published under it. Any amendments will thereafter be ratified by Council at the next appropriate Council meeting.

CONCLUSION

The Committee is asked to note the provisions in this report and to consider the issues and the proposals for implementing the new standards regime introduced by the Localism Act 2011.

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.
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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.
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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 have not been published and there is no indication when these are likely to appear.</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>
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OTHER (see below)	
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<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