



Report to: Standards Committee

Date: 9 January 2012

Subject: Introduction of the new Standards Regime

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1. PURPOSE

To agree what steps need to be taken to introduce the new standards regime in line with the provisions of the Localism Act 2011.

2. UPDATE

- 2.1 As the Committee is aware, the Localism Act will abolish the current "Standards Board Regime". The Standards Board for England ceased its regulatory functions on 31 January 2012 and the Board will be abolished no later than 31 March 2012. The remaining local elements of the current Standards regime will be abolished on 1 July 2012. From that date all standards matters, including consideration and determination of outstanding complaints made during the period the Standards Board regime was operating, will be the responsibility of local authorities, to be handled under new arrangements.
- 2.2 A letter was sent to all Parish Clerks on 30 January 2012 outlining the main provisions in the Act and advising that the Borough Council will keep the Parish Councils informed of what arrangements it intends to put into place under the new regime.

3. PROPOSALS

3.1 Standards Committee

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. As a result there

will be no requirement for a Standards Committee, however there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee. At a previous meeting the Standards Committee recommended that the Council should retain a Standards Committee. If it decides to do so, it will be a normal Committee of Council. As a result the composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply and the current co-opted independent members will cease to hold office.

- 3.2 The Borough Council must therefore decide whether to set up a Standards Committee, and if so how it is to be composed.

3.3 Code of Conduct

The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. Regulations to be made under the Act will require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

The Act prohibits members with a DPI from participating in authority business, and the Council can adopt a Standing Order requiring members to withdraw from the meeting room.

- 3.4 The Borough Council must therefore decide what to include in its Code of Conduct and whether to adopt a Standing Order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

3.5 Arrangements to deal with complaints

The Act requires that the Council adopt "arrangements" for dealing with complaints of breach of Code of Conduct both by Borough Council members and by Parish Council members and such complaints can only be dealt with in accordance with such "arrangements". So the "arrangements" must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is

found to have failed to comply with the relevant Code of Conduct. The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints.

- 3.6 The Borough Council must decide what “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.

3.7 Independent Person

The “arrangements” adopted by Council must include provision for the appointment by Council of at least one Independent Person. The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Borough Council (not just of those present and voting). The Independent Person cannot be or have been in the last 5 years a Member or co-opted Member or officer of the authority. Unfortunately this will preclude current Independent members of the Standards Committee from being appointed as the Independent Person.

- 3.8 The Borough Council will need to decide how many Independent Persons it wishes to appoint, what role they would be expected to play and allowances they should receive.

3.9 Register of Members Interests

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, Regulations will define “Disclosable Pecuniary Interests” (DPIs). At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member’s own interests, but also those of the member’s spouse or civil partner, or someone living with the member in a similar capacity. The provisions of the Act in respect of the Code of Conduct require an authority’s Code of Conduct to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. Therefore there is an ongoing requirement for the Monitoring Officer to continue to maintain a Register of Interests, but it is for the Council to decide what non-DPIs should be entered on the Register.

- 3.10 The Borough Council will therefore need to decide what other interests it wishes to be included in the Register of Members Interests. This would need to be reflected in the Code of Conduct.

3.11 Dispensations

The provisions on dispensations are significantly changed by the Localism Act. At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –

- i. That at least half of the members of a decision-making body have prejudicial interests: or
- ii. That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.

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

- i. That so many members of the decision-making body have DPLs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
- ii. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
- iii. That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- iv. That, without a dispensation, no member of the Cabinet would be able to participate on this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- v. That the authority considers that it is otherwise appropriate to grant a dispensation.

3.12 The next significant change is that, the Localism Act gives discretion for the power to grant a dispensation to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer.

3.13 The Borough Council therefore needs to determine what arrangements it wishes to have in place to deal with applications for dispensations.

4. RECOMMENDATION

It is **recommended** that the Standards Committee consider setting up a number of Working Groups to:

- a) give consideration to the above issues: and
- b) report back to the Standards Committee on what arrangements should be put in place to establish a new Standards Regime in line with the provisions of the Localism Act.