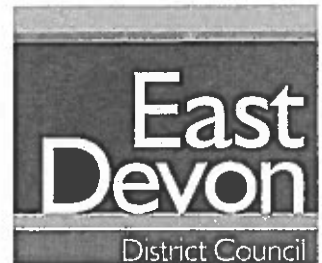


Date: 16 January 2012
Contact number: 01395 517543
E-mail: cholland@eastdevon.gov.uk



To: Members of the Standards Committee:
(Cllr P Bowden, Mr E Butt, Cllr G P Chamberlain, Mr R Davison,
Cllr Peter Halse, Cllr D Mason, Cllr S Pollentine, Cllr C Richards,
Ms A Willan, Cllr Tim Wood,)
Substitute Members: (Derek Button, Frances Newth)

Chief Executive
Monitoring Officer
Corporate Legal and Democratic Services Manager

East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

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Dear Sir/Madam,

**Standards Committee
Tuesday 24 January 2012 at 10.00 am**

The above meeting will be held in the Committee Room, Knowle, Sidmouth, to consider the matters detailed on the agenda below.

Yours faithfully,

MARK WILLIAMS

Chief Executive

Members of the public are welcome to attend this meeting.

- A period of 15 minutes has been provided at the beginning of the meeting to allow members of the public to raise questions.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman of the Committee will ask if any member of the public would like to speak in respect of the matter and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- The public is advised that the Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

AGENDA

Part A

- | | Page/s |
|---|---------------|
| 1 Public question time – standard agenda item (15 minutes)
Members of the public are invited to put questions to the Committee through the Chairman. | |
| 2 To receive any apologies for absence | |
| 3 To confirm the minutes of the meeting held on 1 November 2011 | 4-6 |
| 4 To receive any declarations of interests relating to items on the agenda. | |

5	To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which Officers recommend should be dealt with in this way.		
6	To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be identified in the minutes. If you wish to raise a matter under this item, please do so in advance of the meeting by notifying the Chief Executive who will then consult with the Chairman).		
7	Localism Act implementation - Standards and new Code of Conduct	Corporate Legal and Democratic Services Manager	7-15
8	Predetermination provision in Localism Act	Corporate Legal and Democratic Services Manager	16-17
9	Complaints update and statistics	Monitoring Officer	18-20
10	Forward Plan	Monitoring Officer	21

Members remember!

- You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- Make sure you say the reason for your interest as this has to be included in the minutes.
- If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- You also need to declare when you are subject to the party whip before the matter is discussed.

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Standards Committee held at Knowle, Sidmouth on 1 November 2011

Present:	Ted Butt	Independent Chairman
	Cllr Peter Bowden	EDDC Councillor
	Cllr Geoff Chamberlain	EDDC Councillor
		EDDC Councillor
	Ray Davison	Independent Member
	Cllr Peter Halse	EDDC Councillor
	Cllr David Mason	Parish Council representative
	Cllr Simon Pollentine	Parish Council representative
	Cllr Courtney Richards	Parish Council representative
	Alison Willan	Independent Member
	Cllr Tim Wood	EDDC Councillor
Substitute Member:	Cllr Frances Newth	EDDC Councillor
Officers:	Christopher Holland	Democratic Services Officer
	Denise Lyon	Monitoring Officer
	Diana Vernon	Democratic Services Manager

The meeting started at 10.00 am and ended at 10.59 am

*1 **Election of Chairman**

After the election of Chairman, the Monitoring Officer outlined the membership terms of the Standards Committee. It was noted that both Ted Butt and Cllr Simon Pollentine would have completed eight years service in May 2012. Ray Davison, Cllr Courtney Richards and Alison Willan had also all completed four year terms which could be extended at Annual Council 2012 if desired.

- RESOLVED:**
- 1) that Ted Butt be elected as Chairman of the Standards Committee for the ensuing civic year. (until May 2012)
 - 2) that the membership term to the Standards Committee of Ray Davison, Cllr Courtney Richards and Alison Willan be extended by four years at the Annual Council meeting in May 2012.
 - 3) that arrangements be made to fill the posts of Independent Member and Parish Representative to be appointed at the Annual Council Meeting in May 2012.

*2 **Minutes**

The minutes of the meeting of the Standards Committee held on 15 March 2011 were confirmed and signed as a true record.

***3 Member Development Programme (cont'd)**

Members considered the report of the Democratic Services Manager, which outlined the Development Programme available to Members elected at the May 2011 Local Government Elections.

It was noted that the sessions had been generally well supported. Members who had attended had commented that they had gained much from each of the various development opportunities on offer. Members remarked that the sessions had been very informative and helpful. This had been especially true of newly elected Members who had given excellent feedback to Democratic Services.

Councillor Bowden expressed disappointment at the low level of attendance at the Development Management briefings. He thought that although it was a potentially complicated and dry subject, Members should become more aware of and involved in the process. Ted Butt commented that he had attended a Development Management Meeting held at Exmouth before the elections and that this had been extremely well run with the public and Members having plenty of opportunity to put their case forward.

RESOLVED that the Democratic Services Manager and her team be congratulated and thanked for their work on the Member Development Programme.

***4 Standards Committee complaints statistics**

Members considered the report of the Monitoring Officer, which detailed the level and type of complaints received by the Monitoring Officer for the Standards Committee from March to October 2011. It was noted that the level of complaints had been comparable to 2010 for the same period.

RESOLVED that the report be noted.

***5 Recent guidance from the Monitoring Officer**

Members considered a copy of recent guidance issued by the Monitoring and Deputy Monitoring Officers after the Local Government Elections held in May 2011. The guidance had been issued in response to many Members' concerns regarding pre-election pledges and campaigning stances and the effects of these on participation at meetings. This had focused particularly on prejudicial interests when dealing with planning applications.

Members of the Committee thanked the Monitoring Officer for providing timely, clear and useful information, which allowed members to carry out their duties as democratically elected representatives.

RESOLVED that the guidance be noted.

***6 Standards Legislation Update**

Members considered the report of the Devon County Council County Solicitor, which was presented by the Monitoring Officer.

The report outlined her suggestion that if the Localism act abolished the national Code of Conduct and Standards for England, a Devon county wide voluntary code of conduct could be adopted. Members were supportive of such a scheme. They felt that the general principles of the Standards regime should remain to help promote better standards in the working of Councils. If such a scheme was proposed, it was hoped that the Council could support it.

RESOLVED that the report be noted.

***7 Local Government Ombudsman Annual Review letter**

Members considered the letter received from the Local Government Ombudsman, which outlined a summary of statistics on complaints made about the authority for the year ending 31 March 2011.

The Monitoring Officer commented that the level of complaints upheld against the Authority had been low and had been circulated to Members to keep them in the picture with regard to complaints received about the Authority. She had asked for additional information so that Members could bench mark the level of complaints against other Authorities. This would be circulated to Members shortly.

RESOLVED that the report be noted.

***8 Local Government Ombudsman Annual Review letter**

Members considered the Standards Committee forward plan for meetings up until May 2012.

RESOLVED that the forward Plan be noted.

***9 Date of Next Meeting**

The next meeting was currently timetabled for 24 January 2012 if required.

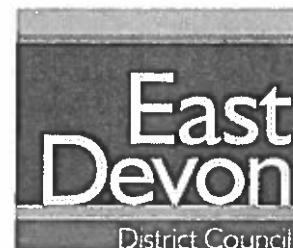
Chairman Date

Agenda Item 7

Standards Committee

24 January 2012

RP



Localism Act implementation - Standards and new Code of Conduct

Summary

The Localism Act will sweep away much of the existing Standards regime, including Standards for England [SFE] and the ability to refer certain councillor Code of Conduct complaint cases to it. SFE is likely to be abolished with effect from 31 March 2012; and for practical purposes SFE is now unwilling to take further referrals.

This report is to outline the final form of the Act, which was subject to substantial late changes, in preparation for a later report which will present specific recommendations/options to members. The Localism Act requires a new local Code and local standards machinery in line with regulations yet to be made and will most likely need to be in place by 1 July 2012.

Recommendations

1. Members note the likely implementation date for the start of the new code of conduct framework as 1 July 2012 and the Corporate Legal and Democratic Services Manager's intention to further report to the Standards Committee prior to full Council approval of a new Code of Conduct and associated arrangements under the Localism Act.

2. Members are asked to express any initial comments they may have concerning the issues set out in the report.

a) Reasons for Recommendation

To prepare for implementation of the standards elements of the Localism Act 2011.

b) Alternative Options

Where there are choices, these are indicated in the report.

c) Risk Considerations

Failure to implement a means of dealing with complaints against councillors that is as effective as possible may lead to a loss to the Council's reputation.

d) Policy and Budgetary Considerations

It is unlikely that the new standards arrangements will be more expensive to run than the current ones, provided cost of the increased duties placed on the Monitoring Officer to maintain registers of interests for parish councils is offset by a new process for dealing with complaints against councillors which is more streamlined than the soon to be abolished statutory assessment, hearing and review procedures.

Positive Impact Overall

Excellent Customer Service.

Inspirational Council.

Meeting our crime and disorder duties.

Meeting our Diversity and Equality duties.

e) Date for Review of Decision

A further report will be brought to Standards Committee in March, subject to legal timetable permitting, before making recommendations to full Council for approval.

1. The Localism Act 2011

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors.

This report describes the changes and recommends the actions required for the Council to implement the new regime.

2. Duty to promote and maintain high standards of conduct

The authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

3. Standards Committee

- 3.1 The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, 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, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –
- 3.2 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;
- 3.3 The current co-opted independent members will cease to hold office. The Act establishes for a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years after they have been members of that authority.
- 3.4 The District Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils, but the current Parish Council representatives cease to hold office. The District Council can choose whether it want to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. The Parish Councils can, as a result of the general law, only be non-voting co-opted members unless the Standards Committee is established as a joint committee with that parish council; in my view a joint committee with the parish councils in East Devon would be too cumbersome as there are sixty nine parish councils. However, the council solicitors across Devon are looking at the possibility of a joint committee for the Devon districts and the county council. This would offer the opportunity to refer serious misconduct matters to a committee which could be constituted so members from other councils looked at it independently. This could be particularly useful now that Standards for England is to be abolished and will no longer deal with serious allegations such as those relating to the leadership or systemic problems across a whole authority. It is intended the further report to Standards Committee will include an update on the possibility of a Devon Standards Committee.

4. The Code of Conduct

4.1 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. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted members' conduct when acting in that capacity. It will not apply to non-voting co-opted members. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

4.2 The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, 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 result is that it is not possible yet to draft Code provisions which reflect the definition of DPIs which will appear in regulations.

4.3 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.

So the Council's new Code of Conduct will have to deal with the following matters –

- General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct. In practice, the easiest course of action would be simply to re-adopt Paragraphs 3 to 7 of the existing Code of Conduct. The Council can amend its Code of Conduct subsequently if the need arises; and
- Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains "appropriate" provisions for this purpose, but, until the regulations are published, defining DPIs; it is difficult to suggest what additional disclosure would be appropriate.

4.4 Devon wide, solicitors/monitoring officers are intending to propose to members that a common Code be adopted at County, District and Parish levels. This would avoid 'dual' or 'triple' hatted members being subject to different and perhaps conflicting codes and promote simplicity and understanding of the new Localism Act regime.

5. Dealing with Misconduct Complaints

5.1 "Arrangements"

The Act requires that the Council adopt "arrangements" for dealing with complaints of breach of Code of Conduct both by District 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.

5.2 The advantage is that the Act repeals the requirements for separate Assessment/Hearings and Review Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

5.3 Decision whether to investigate a complaint

In practice, the Standards for England guidance on Initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where she feels that it would be inappropriate for her to take a decision on it, for example where he has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it is right that she should be accountable for its discharge. For this purpose, it would be appropriate that she make a quarterly report to Standards Committee, which would enable her to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.

5.4 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Council or its Standards Committee any specific statutory powers to impose sanctions such as suspension or requirements for training or an apology on members. Further legal work is being done on options in terms of giving the new regime effective 'teeth'.

5.5 There is a particular difficulty in respect of Parish Councils, as the Localism Act gives the Standards Committee no power to do any more in respect of a member of a Parish Council than make a recommendation to the Parish Council on action to be taken in respect of the member. Parish Councils will be under no statutory obligation to accept any such recommendation.

5.6 Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

6. Independent Person(s)

6.1 The "arrangements" adopted by Council must include provision for the appointment by Council of at least one Independent Person.

"Independence"

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 District Council (not just of those present and voting).

Protective Marking: UNCLASSIFIED

A person is considered not to be "independent" if –

- 6.1.1 he is, or has been within the last 5 years, an elected or co-opted member or an officer of the District Council or of any of the Parish Councils within its area;
- 6.1.2 he is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish Councils within its area (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or
- 6.1.3 he is a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

For this purpose, "relative" comprises –

- 6.1.3.1 the candidate's spouse or civil partner;
- 6.1.3.2 any person with whom the candidate is living as if they are spouses or civil partners;
- 6.1.3.3 the candidate's grandparent;
- 6.1.3.4 any person who is a lineal descendent of the candidate's grandparent;
- 6.1.3.5 a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- 6.1.3.6 the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- 6.1.3.7 any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

6.2 Functions of the Independent Person

- The IP must be consulted and views taken into account before the authority takes a decision on any allegation it has decided to investigate.
- The IP may be consulted by the principal authority in circumstances where the authority is not taking a decision whether to investigate the allegation.
- The IP may be consulted by a member of the authority against whom an allegation has been made.
- The IP may be consulted by a parish councillor against whom an allegation has been made.

6.3 It would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint. The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a couple of reserve candidates are retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is no longer able to discharge the function.

6.4 Remuneration

As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

- 6.5 In comparison to the current Chair of Standards Committee, the role of Independent Person is likely to be less onerous. The IP could be co-opted as a non-voting member of the standards Committee and/or any hearings arrangements set up by the Council.

7. The Register of Members' Interests

7.1 The register of members' interests

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs).

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Parish Councils, which also have to be open for inspection at the District Council offices and on the District Council's website.

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 to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the District Council offices and on the District Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.

7.2 Registration on election or co-option

Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member.

In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct.

There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.

The preparation and operation of the register, not just for this authority but also for each Parish Council, is likely to be a considerable administrative task, especially where different Parish Councils adopt different Code requirements for registration and disclosure in respect of interests other than DPIs. There is no provision for the District Council to recover any costs from Parish Councils

The requirement for the member to withdraw from the meeting room may be dealt with in the authority's standing orders. The Localism Act removes the rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct

8. Disclosure of Interests and Withdrawal from Meetings

As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences. So –

8.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.

8.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a "pending notification"). So, members of the public attending the meeting will in future need to read the register of members' interests, as registered interests will no longer be disclosed at the meeting.

8.3 Where the member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.

8.4 If a member has a DPI in any matter, he/she must not –

8.4.1 Participate in any discussion of the matter at the meeting. The Act does not define "discussion", but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or

8.4.2 Participate in any vote on the matter,

unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

8.5 Failure to comply with the requirements (paragraphs 8.2, 8.3 or 8.4) becomes a criminal offence, rather than leading to sanctions;

8.6 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 Code of Conduct but not a criminal offence.

8.7 The requirement to withdraw from the meeting room can be covered by Standing Orders, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Cabinet and Cabinet Committee meetings, so that failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the member.

9. Disclosure and Withdrawal in respect of matters to be determined by a Single Member

9.1 Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under Portfolio powers, or where the member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors.

9.2 The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –

9.2.1 Unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and

9.2.2 He/she must take no action in respect of that matter other than to refer it another person or body to take the decision.

9.3 Standing Orders can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.

9.4 Note that the Act here effectively removes the rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct

10. Dispensations

10.1 The provisions on dispensations are significantly changed by the Localism Act.

10.2 At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –

10.2.1 That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and

10.2.2 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 (this ground would require that the members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).

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

10.3.1 That so many members of the decision-making body have DPs 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;

10.3.2 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;

10.3.3 That the authority considers that the dispensation is in the interests of persons living in the authority's area;

10.3.4 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

10.3.5 That the authority considers that it is otherwise appropriate to grant a dispensation.

10.4 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

10.5 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds 10.3.1 and 10.3.4 are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted

“at the door of the meeting”. Grounds 10.3.2, 10.3.3 and 10.3.5 are rather more objective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

11. Conclusion

Discussions are ongoing between the government, stakeholders, monitoring officers and lawyers about implementation arrangements and the preparation of a model Code which could be adopted on a voluntary basis. On 6 January it was announced by the government that the likely implementation date for the new Standards arrangements will be the 1 July 2012

Legal Implications

Incorporated in the report.

Financial Implications

Costs of investigations by the monitoring officer for 2010/11 were £10,223 and £7,527 to date in 2011/12. The budget for 2012/13 is £6,010. It is assumed the new regime will not increase these costs significantly.

Background Papers

- Model report to Standards Committee prepared by Peter Keith Lucas of Bevan Brittan LLP. Use of this material is acknowledged with thanks.

Rachel Pocock Ext.2601
Corporate Legal and Democratic Services Manager

Standards Committee
24 January 2012

Standards Sub Committee meeting and complaint case outcomes

Meeting date	Case #	TC/PC or EDDC member	Outcome
Standards Assessment & Hearings Sub Committee 10/06/2011	LSB37	T Cllr	No further action Para 6(b)(ii)
Standards Assessment & Hearings Sub Committee 18/07/2011	LSB38	EDDC Cllr	No further action Para 6(a)
	LSB39	EDDC Cllr	No further action Para 6(a) Review requested Case adjourned until as additional SC members needed Standards Review Sub Committee 24/01/12
	LSB40	EDDC Cllr	No further action Para 6(a) Review requested Case adjourned until as additional SC members needed Standards Review Sub Committee 24/01/12
Standards Assessment & Hearings Sub Committee 19/08/2011 & Standards Assessment & Hearings Sub 23/11/11	LSB41	T Cllr	Referred for investigation Paras: 5, 9, 10(i) Findings - The Sub-Committee 23/11/11 upheld the findings of the investigating officer namely that: <ul style="list-style-type: none"> • Cllr did not have a personal or a prejudicial interest and therefore did not fail to follow paragraphs 9, 10 or 12 • Cllr did not bring their office or their authority into disrepute and therefore did not fail to follow paragraph 5 • Cllr did not use position improperly to secure an advantage or disadvantage and therefore did not fail to follow paragraph 6(a)
	LSB42	T Cllr	Referred for other action – additional advice and guidance to be given to all members of Parish, Town and District Councils regarding “Candidates Pledge” of the Communities Before Developers” group and on the issue of predisposition and predetermination generally. Paras: 5, 6(a), 9/10, 12

Meeting date	Case #	TC/PC or EDDC member	Outcome
Standards Assessment & Hearings Sub Cmttee 30/09/2011	LSB43	T Cllr	Referred for other action Paras: 3(1), 3(2)(b), 5 Adjourned until 13/12/11 – decision of no further action. Review requested 11/01/12 Standards Review Sub Committee 24/01/12
Standards Assessment & Hearings Sub Committee 01/11/2011	LSB44	EDDC Cllr	Referred for investigation Paras 5, 6(a), 9/10, 12
Standards Assessment & Hearings Sub Committee 23/11/11	LSB45	EDDC Cllr	No further action Paras: 3(1), 5
Standards Assessment & Hearings Sub Committee 23/11/11	LSB46	EDDC Cllr	Referred for investigation Paras: 3(1), 5
Standards Assessment & Hearings Sub Committee 23/11/11	LSB47	EDDC Cllr	Referred for investigation Paras: 3(1), 5
Standards Assessment & Hearings Sub Committee 23/11/11	LSB48	EDDC Cllr	Referred for investigation Paras: 3(1), 5
Standards Assessment & Hearings Sub Committee 23/11/11	LSB49	Town Cllr	Referred for investigation Paras: 3(1), 5
Standards Assessment & Hearings Sub Committee 23/11/11	LSB50	EDDC Cllr	Referred for investigation Paras: 3(1), 5

Meeting date	Case #	TC/PC or EDDC member	Outcome
Standards Assessment & Hearings Sub Committee 13/12/11	LSB51	Town Cllr	No further action Paras: 5, 6(a), 9/10, 12 Complainant requested review 16/01/12 Standards Review Sub Committee 24/01/12
Standards Assessment & Hearings Sub Committee 13/12/11	LSB52	Town Cllr	No further action Paras: 5, 6(a), 9/10, 12 Complainant requested review 21/12/11 Standards Review Sub Committee 24/01/12
Standards Assessment & Hearings Sub Committee 24/01/12	LSB53	EDDC Cllr	Paras: 3(1), 5 Standards Assessment and Hearings Sub Committee 24/01/12

Agenda Item 10

Audit and Corporate Governance Committee

24 Januar 2012



Standards Committee

Forward Plan 2011/12

13 March 2012	<ol style="list-style-type: none">1. Annual Report2. New or amended legislation update3. Member training and development update4. Complaints update5. Forward Plan
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These are the main items, but there may be other matters arising through the year that members want to include too.

