



# AGENDA

**NOTE: In the case of non-members, this agenda is for information only**

- Committee** - **STANDARDS COMMITTEE**
- Date & Time** - Tuesday, 3rd January, 2012 at 2.15 pm
- Venue** - Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham

**Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.**

#### Committee Members

Mr. M. Eveling JP (*Independent*)(*Chairman*)  
Mrs. S.M. Matthews (*Breckland*)  
Mr. B. Rayner (*Parish*)  
Mr. G. Ridgway (*Independent*)

Mr. F. Sharpe (*Breckland*)  
Mrs J. R. Smith (*Parish*)  
Mr. A. D. Sommerville CPM (*Parish*)  
Mr. D. Williams JP (*Breckland*)

**Persons attending the meeting are requested to turn off mobile telephones**

Member Services  
Elizabeth House, Walpole Loke,  
Dereham Norfolk, NR19 1EE

Date: Wednesday, 21 December 2011

**PART A**  
**ITEMS OPEN TO THE PUBLIC**

	<u>Page(s)</u> <u>herewith</u>
<p>1. <b><u>MINUTES</u></b> To confirm the minutes of the meeting held on 22 November 2011.</p>	1 - 5
<p>2. <b><u>APOLOGIES</u></b> To receive apologies for absence.</p>	
<p>3. <b><u>URGENT BUSINESS</u></b> To note whether the Chairman proposes to accept any item as urgent business pursuant to Section 100(B)(4)(b) of the Local Government Act 1972.</p>	
<p>4. <b><u>DECLARATION OF INTEREST</u></b> Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Members' Code of Conduct requires that declarations include the nature of the interest and whether it is a personal or prejudicial interest.</p>	
<p>5. <b><u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u></b> To note the names of any non-members wishing to address the meeting.</p>	
<p>6. <b><u>THE NEW STANDARDS REGIME AND CODE OF CONDUCT</u></b> Mr Askew, Portfolio Holder for Finance &amp; Democratic Services has been invited to attend the meeting to provide Executive comment.</p>	6 - 14
<p>7. <b><u>ITEMS FOR FUTURE AGENDAS (STANDING ITEM)</u></b> To note items for inclusion on future agendas.</p>	
<p>8. <b><u>NEXT MEETING</u></b> To note the date of the next meeting on 21 February 2012.</p>	

**BRECKLAND COUNCIL**

**At a Meeting of the**

**STANDARDS COMMITTEE**

**Held on Tuesday, 22 November 2011 at 2.15 pm in  
Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

**PRESENT**

Mr M.D. Eveling JP (Chairman)  
Mrs S.M. Matthews  
Mr G. Ridgway  
Mr F.J. Sharpe

Mrs J R Smith JP  
Mr A D Sommerville CPM  
Mr D.R. Williams JP

**In Attendance**

Susan Allen - Standards Officer  
John Chinnery - Solicitor & Standards Consultant  
Helen McAleer - Senior Committee Officer

**Action By**

**67/11 MINUTES (AGENDA ITEM 1)**

The Minutes of the meeting held on 11 October 2011 were confirmed as a correct record and signed by the Chairman.

**68/11 APOLOGIES (AGENDA ITEM 2)**

Apologies for absence were received from Mr B Rayner.

**69/11 URGENT BUSINESS (AGENDA ITEM 3)**

None.

**70/11 DECLARATION OF INTEREST (AGENDA ITEM 4)**

None.

**71/11 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 5)**

None.

**72/11 DISPENSATION GRANTED TO SCARNING PARISH COUNCIL (FOR INFORMATION) (AGENDA ITEM 6)**

The dispensation for Mrs Patricia Page, of Scarning Parish Council, in respect of the Former Highway Surveyors Land at Daffy Green and the Scarning Fuel Allotment Charity was noted.

**73/11 STANDARDS ISSUES (AGENDA ITEM 7)**

The short letter of acknowledgement received from the Chief Executive on behalf of the Leader of the Council, was noted.

Action By

**74/11 THE FUTURE OF THE STANDARDS REGIME - AMENDMENTS TO THE LOCALISM BILL (AGENDA ITEM 8)**

A briefing note had been circulated to Members by e-mail and an extract from the Localism Bill was tabled.

The Bill had received Royal Assent on 15 November and there was a lot of detail to be digested. Some commentators had made interesting comments about the new provisions and the Standards Consultant referred to some of those during his presentation.

The commencement date for the new Standards provisions was not yet known but when it came into effect the old Code would end and transitional provisions would come into effect.

Under the new provisions every Council (County, District and Parish) must adopt a Code which had to be consistent with the seven principles of Standards in Public Life. Having adopted and publicised the Code, arrangements had to be put in place to investigate allegations.

Arrangements for investigations included the appointment of at least one Independent Person whose views had to be sought after the complaint had been considered. The Independent Person could also be consulted by the Member subject of the complaint.

The Independent Person could not have had any connection with the Council for the past five years or have family or friends on the Authority.

There was no requirement to have a Standards Committee and if there was one it would be governed by the usual Committee rules and be politically balanced with only Members having voting rights. It might be possible to have the Independent Person as an advisor on the Committee.

All the current assessment, consideration, review and hearing procedures would cease. The Council would be able to set its own procedures for investigating complaints and could also delegate some powers if it chose.

The Independent Person would have no powers to make a determination, but their views must be taken into account when considering a complaint.

The arrangements for investigating allegations made about town and parish councils were more complicated as there was no provision for the District Council to have any powers over town and parish councils. In fact all sanction powers had been removed and the Council had no power to enforce its decision, other than censure.

The new Code would require the registering of interests. The Register must be held by the District Council and published on the website. Councillors would be required to disclose their pecuniary interests within 28 days of taking office. Those interests should also include those of their spouse/partner.

The Bill also referred to Members disclosing their interests at a meeting

**Action By**

if they were not on the Register. It appeared that if they had registered their interests they would not be required to declare them at a meeting and could stay, although under Section 10 of the Act it referred to Standing Orders providing for Members having to leave.

Attention was drawn to Section 31(4) which said that Members with a pecuniary interest should not participate in a meeting. It was unclear what participation meant and it might not preclude Members from remaining in the room. It was acknowledged that their presence might influence the decision.

It appeared that dispensations would be dealt with in the same way as presently but with additional grounds added and the facility to delegate powers to the Monitoring Officer.

There was concern at the 'catch all' provision in Section 33(2)(3) to grant a dispensation when the authority "considers that it is otherwise appropriate to grant a dispensation" and the Solicitor agreed that it would be unfortunate if granted for inappropriate reasons. It was another area that might cause complications and a lot of guidance would be needed for its implementation.

The Chairman noted that there had been a universal set of rules which had not been perfect but had at least provided a framework for everyone to work to. Now, nothing was clear.

Moving on to offences, on page 45 of the handout, the Solicitor pointed out that if a Member failed to declare a pecuniary interest proceedings could only be instituted by or on behalf of the Director of Public Prosecutions. Sanctions could be a fine of up to £5,000 and/or disqualification for up to five years.

A Member asked whether the police would be expected to investigate such offences and was also concerned that during a Hansard debate there had been mention of an appropriate defence being a reasonable excuse for not disclosing an interest.

The Chairman felt that it was necessary to get the debate started at a political level to determine which direction the Council was going, whether it was considering a County wide or just Breckland system. He hoped that the Standards Committee could be involved in that debate.

A Member suggested that the Council should be looking even wider than the County in view of the exiting partnership with South Holland.

The Solicitor was keen to see what the Association of Council Secretaries and Solicitors would provide as a model Code. He suggested that a copy of the existing Code could be produced on the next agenda to provide a starting point.

Members felt that a political steer was required and it was suggested that an Executive Member should be invited to the next meeting.

The issues for consideration at the next meeting were:

- the wording of a new Code

**Action By**

- the form of any new Standards Committee
- arrangements for dealing with breaches of the Code; and
- appointment of Independent Persons

It was agreed that if an Executive Member would be available and sufficient further details had been received, an additional meeting should be scheduled in December if possible.

**75/11 VEXATIOUS AND HABITUAL CORRESPONDENTS POLICY  
(AGENDA ITEM 8)**

The Chairman had been concerned about this matter for some time. He felt that it had given the current regime a bad name. At the previous Sub-Committee meeting he had suggested that it should be included on the Standards Committee Agenda.

The Standards Officer had drafted a Policy which was attached to the Agenda. She noted that following legal advice it would be changed from a Policy to a Guidance Note.

It had also been suggested that the definition of vexatious should be brought in line with that used in the Freedom of Information Act. The Solicitor explained that the current definition was very legal and not fitting for a Guidance Note.

The Standards Officer also asked for an amendment to include advice to the complainant about referring their complaint to the Local Government Ombudsman.

It was **AGREED** that the following amendments be made:

1. to change the title to a Vexatious and Habitual Correspondents Guidance Note;
2. to change the definition of vexatious to the definition in ICO Guidance Notes on FOI;
3. to include advice on taking the complaint to the Local Government Ombudsman in the Guidance Note and draft letters; and
4. to include severe cases being considered for reference to the Police.

A Member asked if a person classified as vexatious by the Council would be notified of that fact and it was confirmed that they would.

**76/11 ITEMS FOR FUTURE AGENDAS (STANDING ITEM) (AGENDA ITEM 10)**

No other items were suggested.

**77/11 NEXT MEETING (AGENDA ITEM 11)**

The arrangements for the next meeting on 3 January 2012 were noted.

**Action By**

**78/11 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 12)**

**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the Press and public be excluded from the meeting for the following item of business on the grounds that it involved the disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act.

**79/11 LOCAL ASSESSMENT COMPLAINTS UPDATE (AGENDA ITEM 13)**

The Standards Officer was thanked for producing the information.

It was noted that almost one third of the complaints originated from one person and a high proportion of the complaints concerned one Parish Council.

Members considered that they had been lenient and tolerant for too long. Under the new regulations the Council would be able to set its own procedures. It was suggested that the Vexatious Correspondent Guidance Note should be adopted and then used to advise that the Council would not respond to further complaints. It was however noted that no complaints would be rejected automatically without consideration.

It was felt that the Guidance should be circulated to all Parish Clerks and publicised on the website. It was not aimed at any specific individual but was to ensure future efficiency.

It was **AGREED** that future procedures should include the Vexatious Correspondent Guidance Note.

The meeting closed at 3.15 pm

CHAIRMAN

**BRECKLAND DISTRICT COUNCIL**

**Report of Monitoring Officer**

**To:** Standards Committee – 3<sup>rd</sup> January, 2012

**(Author:** John Chinnery: Standards Consultant)

**Subject:** The Localism Act 2011 – The Amended Standards Regime

**Purpose:** This report describes the changes and recommends the actions required for the Council to implement the new regime under the Localism Act 2011 which makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors.

**Recommendations:**

- 1) **The Committee is asked to request the Monitoring Officer to draft a suggested Code or Codes in accordance with their views for the next meeting of this Committee to consider.**
- 2) **The Committee is asked to make a recommendation as to whether there should be a Standards Committee, and how it is to be composed.**
- 3) **Members' views are requested on how the existing procedures can be improved, and it is suggested that the Monitoring Officer is asked to prepare draft procedures for the next Committee meeting.**
- 4)
  - a. **That a recommendation be made to Council on the initial allowances and expenses for the Independent Person(s)**
  - b. **That the Monitoring Officer advertise a vacancy of the appointment of 2 Independent Persons**
  - c. **That applications be put to this Committee for a recommendation to full Council on the persons to be appointed.**
- 5) **A Standing Order be drafted 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.**

## **1. INTRODUCTION**

### **1.1 Background**

#### **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. The date for implementation of these changes was proposed to be 1<sup>st</sup> April 2012, but may yet be effective from the Annual Meeting of Council in May 2012.

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

#### **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.

### **1.2 Issues**

#### **1.2.1 The 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. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted member's conduct when acting in that capacity. 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

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, but it is possible to give an indicative view of what the Council might consider to be appropriate to include in the Code in respect of the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it might be sensible at this stage to instruct the Monitoring Officer to prepare a draft Code which requires registration and disclosure for those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal as required by the Act for DPIs.

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.

The Council has to decide what it will include in its Code of Conduct. The Committee's views are requested on:

- a. whether the Code could be based on the existing Code (paras. 1 & 2 amended, paras. 3 to 7, possibly), plus registration and declaration new provisions;
- b. on any other model Codes coming forward from Norfolk County Council, ACSes, NALC, LGA, etc. – these will be attached, if possible.

**The Committee is asked to request the Monitoring Officer to draft a suggested Code or Codes in accordance with their views on the above for the next meeting of this Committee to consider.**

### 1.2.2 Standards Committee

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 –

The composition of the Committee will be governed by political balance requirements, 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.

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. The new Independent Persons may be invited to attend meetings of the Standards Committee, but are unlikely to be co-opted onto the Committee. There is at present a legal argument as to whether the existing Independent Members can be appointed as the Independent Person or not.

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 wants to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. The choice is between establishing a Standards Committee as a Committee of the District Council, with co-opted but non-voting Parish Council representatives (which could then only make recommendations in respect of Parish Council members), or establishing a Standards Committee as a Joint Committee with the Parish Councils within the District (or as many of them as wish to participate) and having a set number of Parish Council representatives as voting members of the Committee (which could then take operative decisions in respect of members of Parish Councils, where the Parish Council had delegated such powers to such a Joint Standards Committee). There are further possibilities of Joint Committees with South Holland or Norfolk authorities.

**The Committee is asked to make a recommendation as to whether there should be a Standards Committee, and how it is to be composed.**

### **1.2.3 Dealing with Misconduct Complaints**

“Arrangements”

The Act requires that the Council adopt “arrangements” for dealing with complaints of breaches of the 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.

The advantage is that the Act repeals the requirements for separate Assessment, Review and Hearings 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.

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 obligation to accept any such recommendation. The only way round this would be to constitute the Standards Committee and Hearings Panels as a Joint Committee and Joint Sub-Committees with the Parish Councils, and seek the delegation of powers from Parish Council to the Hearings Panels, so that the Hearings Panels can effectively take decisions on action on behalf of the particular Parish Council.

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.

**Members’ views are requested on how the existing procedures can be improved, and it is suggested that the Monitoring Officer is asked to prepare draft procedures for the next Committee meeting.**

#### 1.2.4 Independent Person(s)

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

“Independents”

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).

A person is considered not to be “independent” if –

1.2.4.1 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;

1.2.4.2 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

1.2.4.3 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 –

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

Functions of the Independent Person

The functions of the Independent Person(s) are –

- They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member.
- They may be consulted by the authority in respect of a standards complaint at any other stage.
- They may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.

This causes some problems, as 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.

How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons. Two may be a reasonable number for practicable purposes.

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.

In comparison to the current Chair of Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and Hearings Panels, but not to be a formal member of the Committee or Panel (he/she could be co-opted as a non-voting member but cannot chair as the Chair must exercise a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. The Independent Person could also be involved in the local resolution of complaints. However, it would be appropriate to undertake a proper review of the function before setting the remuneration.

Question - How many Independent Persons are required?

**Recommendation –**

- a. That a recommendation be made to Council on the initial allowances and expenses for the Independent Person(s)**
- b. That the Monitoring Officer advertise a vacancy of the appointment of 2 Independent Persons**
- c. That applications be put to this Committee for a recommendation to full Council on the persons to be appointed.**

#### **1.2.5 Disclosure of Interests and Withdrawal from Meetings**

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

1.2.5.1 The duty to disclose 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.

1.2.5.2 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 have to be disclosed at the meeting under the Act itself.

1.2.5.3 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.

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

1.2.5.3.1 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)(public speaking) of the model Code of Conduct; or

1.2.5.3.2 participate in any vote on the matter,

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

Failure to comply with the requirements becomes a criminal offence, rather than leading to sanctions.

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.

The requirement to withdraw from the meeting room can be covered by Standing Orders, which could apply not just to Council, Committees and Sub-Committees, but can apply also to Cabinet and Cabinet Committee meetings, but a 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.

Question - What Standing Order should the Council be recommended to adopt in respect of withdrawal from meetings for interests?

**Recommendation –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.**

## **1.2.6 Disclosure and Withdrawal in respect of matters to be determined by a Single Member**

Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under Portfolio powers.

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 –

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

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

The Constitution at present prevents an Executive member from exercising his power where he has a prejudicial interest. This will need amendment to relate to DPIs. Standing Orders can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.

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

Question – Is the Committee happy with the above?

### **1.2.7 Register of Members' Interests**

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.

A report on the Register will be made to a future meeting of the Committee.

### **1.2.8 Dispensations**

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

It is recommended that a report on this subject is made to a future meeting of the Committee

### **1.2.9 Transitional Arrangements**

Regulations under the Localism Act will provide for –

- a. transfer of Standards for England cases to local authorities following the abolition of Standards for England;
- b. a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- c. removal of the power of suspension from the start of the transitional period; and
- d. removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

### **1.2.10 Training**

The instructions of the Committee are requested on what training the Monitoring Officer should provide for district and town/parish councillors.

## **2. IMPLICATIONS**

### **2.1 Risk**

### **2.2 Financial**

None

### **2.3 Legal**

There may need to be changes to the Constitution in respect of the composition of Standards Committee and a new Standing Order.

### **2.4 Equality and Diversity**

None

## **3. Alignment to Council Priorities**

### **3.1 Your Council, Your Services**

## **4. Wards/Communities Affected**

### **4.1 All**

Background papers:-

1. This Report draws heavily on a model report drafted by Bevan Brittan, Solicitors.

2. Key Dates:

Cabinet: 10 Jan/ 14 Feb/ 27 Mar/ 8 May

Council: 19 Jan/ 23 Feb/ 12 April/ 24 May (AM)

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### **Lead Contact Officer**

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