

## **TELFORD & WREKIN COUNCIL**

### **STANDARDS COMMITTEE – 8<sup>TH</sup> DECEMBER 2011**

#### **THE LOCALISM ACT 2011 UPDATE**

#### **REPORT OF HEAD OF GOVERNANCE AND MONITORING OFFICER**

### **1. PURPOSE**

To provide the Standards Committee with the details of the Localism Act 2011 so far as they relate to the standards framework and to seek views on the future of the ethical framework for councillors at Telford & Wrekin.

### **2. RECOMMENDATIONS**

**2.1 That the Standards Committee provide the Monitoring Officer with instructions as to what action needs to be taken at this stage to accommodate the provisions of the Localism Act that relate to councillor conduct**

### **3. SUMMARY**

The Localism Act 2011 received royal assent on 15<sup>th</sup> November 2011. The new legislation will change the ethical framework from the existing model and will require the Council to make a number of decisions as to how the council's ethical framework will operate in the future. The views of the Standards Committee are sought so that the Monitoring Officer can commence the work that is required.

### **4. PREVIOUS MINUTES**

Standards Committee 21<sup>st</sup> September 2011  
Standards Committee 21<sup>st</sup> April 2009 (ST-39)  
Standards Committee 18<sup>th</sup> June 2009  
Standards Committee 17<sup>th</sup> June 2010  
Standards Committee 16<sup>th</sup> June 2011

### **5. INFORMATION**

#### **5.1 Background**

5.1.1 The Localism Act 2011 ("the Act") received royal assent on 15<sup>th</sup> November 2011. The numerous provisions of the Act will be brought in to force over the next few months. There will be numerous changes to the Councillor Code of Conduct regime which can be summarised as follows.

## 5.2 **Changes to the Standards Regime – A summary of the key points**

### **When will it be implemented?**

1 April 2012 is the stated date, with 2 months to deal with all existing claims under the current regime.

### **What has gone?**

In short, Standards for England will be abolished as will the model codes and undertaking to comply with the codes. Standards committees, as we know them today will also be abolished which spells the end of complaints of breaches of the code, referrals sub-committees, review hearings, investigations and hearings (either internally or by the First Tier Tribunal) to consider investigation reports.

### **What is replacing it?**

#### **General principles**

The Borough Council, Town and Parish Councils must continue to promote and maintain high standards of conduct by members and co-opted members.

#### **A new code?**

It is specifically required that such authorities must adopt a code of conduct which must be consistent with the 7 principles of selflessness, integrity, honesty, objectivity, accountability, openness and leadership.

It is up to each authority to adopt its own code and there is no guidance on what it should include. However, Town and Parish councils may choose to adopt the Borough's code of conduct.

#### **Breaches of the code**

The Borough Council has to have in place arrangements for investigations and consideration of investigation reports for both complaints against its members and members of Town and Parish councils.

#### **The role of the Independent member**

This is going to change – the Borough Council would have a duty to appoint an Independent Person and then consult them during an investigation. An Independent Person could also be consulted by the member who has been complained about.

#### **Interests**

New interests are created, pecuniary interests must be disclosed within 28 days of taking office. Later regulations will define what a disclosable pecuniary interest is but they will apply to both the Councillor and his spouse/ civil partner etc.

Having this type of interest will prohibit the Councillor from participating or voting on the matter at the meeting but, unless it is a new interest it need not be disclosed at the meeting if it is already contained in the Register of Interests (see below). It will be up to the individual authority to determine if the Councillor also has to leave the room. Obviously that Councillor cannot then be further involved in that matter either. Dispensations can be secured in certain circumstances.

### **The Register of Interests**

The Act introduces a new interests regime and will require the registration and disclosure of the defined pecuniary interests for both the Borough and Town and Parish Councils. The Register will be available for public inspection and will be published on the authority's (and the Town or Parish Council's) web-site

### **Sanctions**

There is nothing that details the sanctions applicable. Practically it appears that naming and shaming is the only option available to the Council. (Removal from committees etc could only be carried out with the approval of the relevant Group Leader.)

### **Offences**

There are new criminal offences of failure to disclose defined pecuniary interests, providing false or misleading information about interests, taking part in decisions (debate or voting) and having further involvement in the matter. The maximum fine is £5,000 and can also include up to 5 year disqualification.

Such offences must be initiated by the Director of Public Prosecutions and there is a defence of reasonable excuse. This is a high bench mark and we would expect few if any prosecutions to be initiated

## **5.3 Decisions for the Standards Committee**

The changes mentioned above will require the Council to look at how it operates the ethical framework in relation to the conduct of councillors. The role of this Committee will be to look at the new legislation and make suggestions to full Council regarding the new regime. Regulations and guidance from government will provide more detail concerning the new legislative provisions but in the meantime the Monitoring Officer requests that the Committee address the following questions in order that preparatory work can be done to ensure that any new arrangements are ready to be introduced when the sections relating to councillor conduct come in to force.

The questions are as follows:

1. The future of the Standards Committee – do we need one, if so what will it do and who will be on it?
2. The development of a local code – what should it include?
3. The role of the Independent Person – what role should they have and how many should there be?
4. Withdrawal from meetings – Should a member with a pecuniary interest be required to withdraw from the meeting?
5. Dealing with Complaints – how can a complaint be made, who makes decisions on investigation, what is the process for investigation, how should an investigation report be dealt with?
6. Dispensations - how would dispensations be given?
7. Working with Town and Parish Councils – should there be a Borough wide code? How should the Council manage the Register of Interests?

The Monitoring Officer will take the views of the Committee on these questions and prepare proposals which will be referred back for consideration by this Committee in the New Year.

#### **5.4 Equality and Diversity**

All processes and procedures undertaken by the Standards Committee need to comply with the appropriate equality and diversity legislation, regulations and guidance.

#### **5.5 Environmental Impact**

No implications.

#### **5.6 Legal Comment**

At present the regime for the assessment and determination of Code of Conduct complaints (as set out in the Local government Act 2000 (as amended) and associated legislation) remains in force. Upon any change in the legislative provisions the Council will need to change its procedures to comply with the new requirements. This will require changes to the Constitution and all other relevant policies and processes.

#### **5.7 Links with Corporate Priorities**

Maintaining an effective ethical framework assists the Council in ensuring it meets the corporate priority of being a customer focussed and efficient Council.

#### **5.8 Opportunities and Risks**

The risks associated with this decision have been assessed. Every effort will be made to ensure that the risks are managed effectively and the opportunities arising from producing the annual report are maximised.

#### **5.9 Financial Implications**

The cost of standards investigations together with the management and administration of the Standards Committee are currently met from within the Legal Services revenue budget. The Chair of Standards Committee receives a Special Responsibility Allowance of £3,935 p.a., in accordance with the members remuneration scheme set out in the Constitution. There are also 4 co-opted members who each receive £260 p.a. It is difficult to assess the financial implications of the changes to the Standards Regime set out in the Localism Act at present as the detailed regulations are not yet available. When the regulations are available the Council will be able to agree its approach and assess any implications.

### **6. WARD IMPLICATIONS**

District wide

## **7. BACKGROUND PAPERS**

The Localism Act 2011

**End of Report**

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