

**29 May 2012****Agenda Item:****REPORT OF THE MONITORING OFFICER****LOCALISM ACT UPDATE****Purpose of the Report**

1. To update Committee on the provisions of the Localism Act 2011 ("**Act**") that have implications for complaints against councillors.

**Information and Advice**

2. The Committee received a report regarding the Act on 17 January 2012 and 28 February 2012. The purpose of this report is to update the Committee on the latest developments that have occurred since the January and February reports.
3. Provisions under the Act to formally abolish Standards for England (SfE) came into effect from 1 April 2012.
4. In the January report to the Standards Committee it was stated that clarification was being sought from the Department for Communities and Local Government ("**DCLG**") on whether current independent members of Standards Committee could serve as the 'independent person'. The Council has obtained a copy of a letter issued by the DCLG which sets out their position. Generally, the DCLG state that the exclusion of existing members of standards committees from being appointed as an 'independent person' was put in place to ensure a clear break with the old Standards Board regime.
5. The response goes on to state that ministers are minded to consider transitional provisions which would allow the appointment of a member or chairman of a standards committee who, although not an existing member or chairman, has held such position within the last five years. The Act currently provides that such persons are not eligible to put themselves forward for the position of 'independent person'. It remains to be seen whether, or indeed how, such transitional provisions will be brought into force.
6. At the time of writing the Council still awaits confirmation from the DCLG regarding the implementation dates for other elements of the Act, such as the removal of statutory powers from standards committees, the requirement to adopt a local code of conduct for councillors, and the requirement to appoint an independent member. As reported previously, the DCLG have advised that they envisage that the remaining local elements of the current regime (the

requirements surrounding standards committees and the statutory complaints process) will be abolished on 1 July 2012, and that the new requirements will come into effect on that date.

7. In the January report it was stated that proposals are being developed for a local code of conduct and a local procedure for dealing with complaints. Under the Act the Council must put in place arrangements for dealing with complaints and the Council will be required to adopt a new or revised Code of Conduct. The Code itself must be consistent with the Nolan principles of public life, namely: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership.
8. The Code must include appropriate provisions for registering, and disclosing pecuniary interests; and interests other than pecuniary interests. The Act provides for regulations to be made which will define “disclosable pecuniary interests”. Failure to disclose “disclosable pecuniary interests” within the relevant period will be a summary offence and may result in disqualification for up to 5 years. The Council is currently waiting publication of regulations setting further details in relation to requirements.
9. It was reported to the Committee in February that the Local Government Association (“**LGA**”) had taken the lead in developing a model code of conduct. The LGA and the DCLG have both recently published draft Codes of Conduct. The draft Codes are both designed around the Nolan principles of public life and the statutory requirements for registering interests. Copies of the codes are contained in the **Appendix**.
10. The proposals for both the Code and the complaints procedure are still being developed. Details will be brought to Standards Committee for consideration as soon as possible.

### **Other Options Considered**

11. This report is for noting only.

### **Reason/s for Recommendation/s**

12. No formal decision is required; this report is for noting only.

### **Statutory and Policy Implications**

13. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **RECOMMENDATION/S**

- 1) That the report be noted.

**Jayne Francis-Ward**  
**Monitoring Officer**

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### **Constitutional Comments**

14. As the report is for noting only Constitutional Comments are not required.

### **Financial Comments (MB 21/05/12)**

15. There are no specific financial comments arising from the report.

### **Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

The Standards Committee Report of January 2012 is published on the Council's website

([http://itsacr02a.nottscc.gov.uk/apps/ce/memman/memman.nsf/F9466C48107552108025789C004334A9/\\$file/6\\_Localism%20Act.pdf](http://itsacr02a.nottscc.gov.uk/apps/ce/memman/memman.nsf/F9466C48107552108025789C004334A9/$file/6_Localism%20Act.pdf))

The Standards Committee Report of February 2012 is published on the Council's website

(<http://cms.nottinghamshire.gov.uk/apps/ce/memman/memman.nsf/councildiary-details.htm?OpenAgent&unid=FFAE9103B057BB9C8025789C00433F17&linkDate=27/02/2012>)

The Localism Act is published by Parliament

(<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>)

An article published online in Local Government Lawyer contains details about implementation dates

([http://www.localgovernmentlawyer.co.uk/index.php?option=com\\_content&view=article&id=8914:implementation-of-new-standards-regime-delayed-until-1st-july-2012&catid=1:latest-stories](http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=8914:implementation-of-new-standards-regime-delayed-until-1st-july-2012&catid=1:latest-stories))

### **Electoral Division(s) and Member(s) Affected**

All

## **Appendix**

### **DCLG text**

#### **Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

#### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by

regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

## **LGA text**

### **Template Code of Conduct**

As a member or co-opted member of [X authority] I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in [X authority] this will be done as follows: [to be completed by individual authorities]

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.

- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.