

The Localism Act 2011 – The New Standards Regime

COUNCIL – 24 JULY 2012

Report of the: Monitoring Officer (MO)

Status: For consideration and decision

Also considered by: Modern Local Government Group – 11 July 2012

Key Decision: No. This is a Council Function

Executive Summary: This report is presented in order for Council to approve a new Code of Conduct and new arrangements for dealing with Member complaints following implementation of the relevant provisions of the Localism Act 2011, The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012)

This report supports the Key Aim of effective management of Council resources.

Head of Service Mrs. Christine Nuttall – Head of Legal and Democratic Services

Recommendation to Council from the Modern Local Government Group that Council:

- (a) Adopts the Department for Communities and Local Government Code, as recommended by the Task Group, as the new Code of Conduct for the District Council as attached at Appendix 2a.
 - (b) Establishes a Standards Committee with the Terms of Reference and Delegations to the Standards Committee as set out at Appendix 3.
 - (c) Appoints 7 Members in accordance with the political balance rules to serve on the Standards Committee.
 - (d) Adopts the revised procedures for dealing with misconduct complaints including arrangements for the investigation of complaints alleging a breach of the Member's Code of Conduct as set out in Appendix 4.
 - (e) That the MO be authorised to advertise for no less than 1 Independent Person and that a panel comprising the leaders of the political groups be set up to set the allowances and expenses for the Independent Person and to short-list and interview candidates, and to make a recommendation to Council for appointment as set out in Appendix 5.
 - (f) Adopts the new Register of Interest Form for District Council Members and agrees the definition for interests other than pecuniary interests called non pecuniary interests (NPI's) as set out in the Form and as attached to this report at Appendix 6.
-

-
- (g) Agrees to amend its standing orders to provide that a Member or Co-opted Member of the Authority must withdraw from the meeting room, including the public gallery, during the whole consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation. The power to amend the Council's standing orders in this way is given by virtue of s.31(10) of the Localism Act . This amendment to be incorporated into the Council's chosen new Code of Conduct.
- (h) Agrees to delegate powers to grant dispensations to the MO in relation to section 33(2)(a) and(d) of the Localism Act and delegates powers to grant dispensations to the Standards Committee in relation to section 33(2) (b), (c) and (e) of the Localism Act as set out in Appendix 7.
- (i) Agrees that the MO makes the necessary changes to the Constitution by deleting those parts of the Constitution as set out as follows:
- Part 3 – Standards Committee
 - Appendix O – Member's Register of Interests
 - Appendix Q – Member's Code of Conduct
 - Appendix S – Procedure for Local Assessment of Complaints about Allegations of Member Misconduct
 - Appendix T – Sub-Committees of the Standards Committee
 - Appendix U – Guidance on Applying the Appropriate Sanction when a Member has breached the Code of Conduct
 - Appendix V – Process and Procedure for Interviewing and Appointing (Independent and Town/Parish Council Representative) Applicants for the Standards Committee
 - Appendix X – Procedure for Referrals to the MO for Investigation and Determination

and inserting within the Constitution the new Appendices as approved by this report and any necessary consequential changes including any reference in the Constitution to personal and prejudicial interests being changed to Disclosable Pecuniary Interests (DPI's) and interests other than Pecuniary Interests called Non Pecuniary Interests (NPI's).

- (j) Agrees that the Standards Committee and or Modern Local Government Group keeps the Code and Arrangements under review and reports further to the Council as is considered necessary. The Standards Committee will consider setting up a sub-committee for this purpose.

Reason for recommendation: To enable Council to approve a revised Code of Conduct and arrangements for dealing with Member complaints following implementation of the relevant provisions of the Localism Act 2011.

Introduction

- 1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The existing Standards regime ceased to operate on the 30th June 2012. The transitional arrangements are limited and have not allowed for the old arrangements to continue. The Act puts in place a system of requiring members to notify the MO of a new breed of interests (The Disclosable Pecuniary Interest “DPI”) and requires the MO to maintain a public register of those interests. Additionally, the Council must, from 1st July 2012 adopt a new Code of Conduct and put in place arrangements for investigating allegations of breaches and for making decisions in respect of those allegations.
- 2 A Task Group was set up from Members of the existing Standards Committee which met on 6 occasions to give guidance to officers on implementation of the new regime. The last meeting of that group took place on the 28th June 2012 which looked at this report in draft form including the Appendices and the Group’s comments are attached at Appendix 1 (*to follow*). Unfortunately, there was insufficient time for the group to report back to the existing Standards Committee following the implementation of the Regulations which effectively abolished the existing Committee.

Features of the New Regime

- 3 The Localism Act and further Regulations puts in place a standards regime which includes the following features and requirements:
 - A duty to promote and maintain high standards of conduct by Members and Co-opted Members of the authority.
 - A requirement to have a Code of Conduct dealing with the conduct that is expected of Members and Co-opted Members when they are acting in that capacity.
 - A requirement for the Code of Conduct when viewed as a whole, to be consistent with the Nolan principles of: selflessness; integrity; objectivity; accountability; openness; honesty and leadership. (The model codes attached to this report at Appendix 2 do include these seven Nolan principles).
 - A requirement to have in place arrangements under which allegations that a member has breached the Code can be investigated and also under which decisions relating to those allegations can be made.
 - A requirement for the authority to appoint an ‘independent person’ whose views must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. Additionally, the views of the independent person may be sought by the authority and by an elected and co-opted member in other circumstances specified in the Act.

- A regime for requiring the notification to the MO of Discloseable Pecuniary Interests (DPI's) to enable the MO to establish and maintain a register of interest backed by criminal sanctions. Under the new regime it is not only the interests of the Member which must be notified and registered but also those of a spouse or civil partner; a person with whom the Member is living as husband or wife or as civil partners.
- In relation to interests, the authority must also secure that its Code of Conduct includes appropriate provisions in respect of the Registration of DPI's and interests other than pecuniary interests called non pecuniary interests (NPI's).
- As with the current regime, the new provisions allow for the withholding of sensitive information from the Register where the Member concerned and the MO consider that the disclosure of details of the interest could lead to the Member being subject to violence or intimidation.
- Parish/Town Councils remain responsible for adopting their own Code of Conduct but are still required to rely upon the District Council and MO to register notifications of interests and to otherwise investigate allegations of a breach.
- The District Council's MO is responsible for maintaining the register of Parish/Town Council interests and for securing that the register is published on the District Council's website. In Sevenoak's case this will involve the MO receiving and administering the notification of interests of up to 30 Parish/Town Councils.

Significant Departures from the Current Arrangements

- 4 As a result of the new legislation there are some significant differences from the old regime. These can be summarised as follows:
 - The requirement that the Code of Conduct sets out 10 general principles of conduct are replaced by 7 Nolan principles although an Authority has the ability to add to the 7 principles if it so wishes.
 - The one regulatory Code and undertakings to comply with it have gone.
 - Standards for England has been abolished together with its various functions.
 - The jurisdiction of the First Tier Tribunal to hear appeals has gone.
 - The classification of personal and personal and prejudicial interests under the old Code has gone and is replaced by new registration and disclosure requirements. The legislation itself introduces the concept of DPI's and interests other than pecuniary interests (NPI's).
 - The new registration requirements for DPI's are wider in that they apply to the interests of spouses etc. The requirement has clearly been introduced in the interests of transparency. It should be noted that where the Member knows about such interests, the Member must register these interests otherwise a criminal offence is committed. There are no exemptions other than for sensitive

information. These criminal offences are automatically matters for police investigation.

- The concept of a statutory standards committee no longer features. The consequence of this is that any committee now appointed to deal with standards issues is now an ordinary local authority committee subject to all of the usual procedural rules including a requirement for it to be politically balanced. This means that its processes will be more open to public scrutiny because of the application of Schedule 12A of the Local Government Act 1972. A further consequence is that the role of Independent Members and Parish/Town appointed Members no longer exists.
- It follows from the abolition of the statutory standards committee that the statutory processes of initial assessment of complaints, review, consideration and hearings have all now gone. It is now solely for the authority to determine how allegations are to be received and processed.
- The powers of the Council to impose specific sanctions for breach of the Code have been removed. Particularly, no facility exists to disqualify or suspend a Member for a breach of the Code. In effect, the powers of a standards committee dealing with a complaint will be limited to censure and making recommendations to the authority or political leaders that a Member be removed from a particular office or committee.

Preferred New Code

- 5 The law requires the authority to adopt a new Code of Conduct for Members in furtherance of its duty to promote and maintain high standards of conduct by Members and Co-opted Members of the authority. The new Code is to be effective by the 1st July 2012. The legislation does not prescribe a single national 'model' Code and the situation has arisen where there are a number of model codes in circulation.
- 6 The Task Group considered four of the prominent models circulating nationally and across Kent. Comments are set out below on each of these and the model Codes are set out in full at Appendix 2

- a) **Choice 1:** The Department for Communities and Local Government model (sometimes referred to as the "Bob Neill Code")

This was the Task Group's preferred choice.

The Task Group considered this to be a straightforward Code, written in plain English. The Task Group agreed that one additional provision would be needed to refer to compliance with all relevant laws and have due regard to local codes and protocols in effect from time to time including Appendix W to the Council's constitution "Guidance on the Disclosure of Confidential Information by Members"

- b) **Choice 2:** The Local Government Association model

The Task Group had concerns over the content of this model which they considered read more as a Member Job Description, and rejected it on this basis.

c) **Choice 3: The Kent Model**

This model has been produced by the Association of Kent Secretaries, with the objective of having a consistent Code across Kent and Medway, for members who are “dual-hatted” at District and County level.

The Task Group had concerns over this model, which is based on the old Code and which they considered was verbose and which could invite complaints. For these reasons it was rejected.

d) **Choice 4: The National Association of Local Councils (NALC) model.**

This model has been produced by NALC to assist the large number of Town and Parish Councils across the country who all have to adopt their own Code. It is more relevant to Town/Parish Councils and it was considered by the Task Group as it may be likely that local Town and Parish Councils may adopt it. If any do it will remain the District Council’s role to administer it.

- 7 The Task Group’s preferred choice was the Bob Neill Code and this is reflected at recommendation (a) of this report. The version shown at Appendix 2a has additions shown in red which pick up the additional provision set out at 6(a) above, the Disclosable Pecuniary Interests (DPIs) that have been enacted by the Government and the Non Pecuniary Interests (NPIs) set out in paragraph 28 of this report.
- 8 The Bob Neill Code does not include an explicit provision relating to respect. This is because experience has shown that this provision in the past has generated some of the more trivial and time-consuming complaints under the old Code. In addition, the Bob Neill Code does not set out explicit provisions covering bullying and disrepute.
- 9 The provisions of the legislation require all Members to notify the MO of all DPI’s within 28 days of the Code coming into effect. These provisions have been included because, under the Localism Act itself, Members would not be required to register DPI’s until re-elected unless a matter came before a meeting which concerned a DPI. In such a case, the Member would be required to declare the interest at the meeting and notify the MO within 28 days so as to enable registration of the specific DPI.
- 10 Members are reminded that there are criminal sanctions for failure to declare and notify DPI’s. Additionally, Members’ attention is drawn to the attached arrangements at Appendix 4 which consider the relationship between an allegation of a criminal matter and a breach of the Code and how this would be dealt with in practice.

Standards Committee

11. The Localism Act 2011 contains no requirement for the establishment of a Standards Committee. Notwithstanding this, the report does call for the establishment of such a committee as, without it, it is difficult to see how the results of investigations into allegations could be considered in a way which would be seen to be fair and transparent. However, unlike the Standards Committee as presently known, (which owed its existence and derived its rules of procedure from specific statutory provision contained in the Local Government Act 2000), the new Standards Committee will be an ordinary local authority committee established under the Local Government Act 1972.
12. Apart from the adoption of the new Code of Conduct and the appointment of an Independent Person it is proposed that the new Standards Committee will discharge all functions associated with the new standards regime which have not been delegated to the MO or ascribed by statute once they have initially been established by Council. Appendix 3 recommendation (b) to this report sets out the proposed terms of reference and the delegations to the Standards Committee.
13. In order to consider reports into any allegations which are investigated it is envisaged that the Standards Committee will need to establish a hearing panel from amongst its membership.
14. As an ordinary committee of the Council the rules of political balance will apply to its membership. If the Council accepts that the committee should be comprised of 7 Members the current proportionality 'split' is 6 Conservative and 1 Labour Members as set out within recommendation (c) of this report. It is not envisaged that the creation of this committee will require a redistribution of seats on other committees so as to maintain political balance. There is no longer any statutory provision for co-opted Parish/Town Council representatives or for co-opted Independent Members on the new committee. If any such persons are appointed to the new committee they would not have any voting rights.

The Independent Person

15. The scheme of the Localism Act 2012 aims to secure independent input into the standards regime through the requirement placed upon the authority to appoint an 'Independent Person'. The requirements of the Act in this connection are quite specific. The Act provides that the arrangements put in place for the investigation of allegations and making decisions on them must include provision for the appointment of at least one independent person. The role of the Independent Person is prescribed by section 28(7) of the Act. This provides:-

“(7) Arrangements put in place.....by a relevant authority must include provision for the appointment by the authority of at least one independent person –

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose view may be sought-

- (i) by the authority in relation to an allegation in circumstances not within paragraph (a)
- (ii) by a member, or co-opted member of the authority if that person's behaviour is the subject of an allegation, and
- (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority."

Thus, the Independent Person's functions are all related to 'allegations' and the Independent Person does not have a general advisory role in advising upon or monitoring the operation of the standards regime. This is fundamentally different from the role previously fulfilled by the Independent Representatives on the old Standards Committee.

16. The Localism Act 2012 contains detailed provisions as to who may and may not be regarded as an Independent Person. It also prescribes that an appointment as an Independent Person can only be made after public advertisement of a vacancy, and receipt of an application by a candidate. The appointment must be approved by the majority of members of the authority.
17. It should be noted that, as enacted, the Localism Act prohibited the appointment of an existing Independent Member of a Standards Committee as an Independent Person. However, the transitional arrangements (which are extremely limited) have relaxed this to allow the appointment of an existing Independent Member provided that the appointment is made before 1st July 2013.
18. As the Independent Person is not a Member of the authority or of its Committees or Sub-Committee, 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. Therefore, the allowances and expenses of the Independent Person can be set by the interview panel.
19. Members are asked to consider the proposals set out in Appendix 5, recommendation (e) to this report in order that at least one Independent Person can be selected for recommendation to Council for appointment.

Revised Procedures for dealing with Misconduct Complaints

20. The arrangements proposed by the Task Group as set out in Appendix 4 recommendation (d) to this report place on the MO responsibility for deciding which allegations should be investigated and which should not (the process currently known as 'Initial Assessment'). Members will recall that under the existing regime this was a function that the law placed on the Standards Committee (and its sub-committees). The Task Group's opinion is that the existing arrangements for initial assessment are bureaucratic, unwieldy and unnecessarily resource intensive. Also, they do not provide for the possibility of trivial or ill-founded allegations being dismissed at a very early stage.

21. The new arrangements as set out at Appendix 4 do have the benefit of simplicity of operation in their treatment of this aspect of the receipt of allegations. In addition, the Task Group suggested the inclusion of an initial validation test that a complaint would need to pass prior to initial assessment in order to reduce the number of trivial or ill-founded allegations being processed still further. It was also felt strongly that the current arrangements were unjust on the subject member, who is told very little about the complaint initially and is not able to give their side of the story. To rectify this the proposed arrangements include a “right of reply” prior to initial assessment. A key alteration to the current procedure is that the subject Member receives a copy of the complaint together with all supporting documentation in order to facilitate this new “right of reply”.
22. It was recognised by the Task Group that the Model Arrangements should attempt to lay down comprehensive criteria by reference to which the MO will be required to exercise judgement. In addition, there may be circumstances where the MO will have a conflict of interest or when the allegations are particularly serious or are of a particularly sensitive nature in which case provision will have to be made for the MO to refer the complaint for investigation to the Standards Committee via a working party who could give guidance to the MO via a recommendation.
23. The arrangements also offer the opportunity for the MO to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. The necessary delegations to the MO in order for this streamlined approach to take place are set out within the procedures. (Appendix 4).
24. There is no requirement to put in place any appeals mechanism against decisions. Any decision would be open to judicial review by the High Court if it was potentially unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose. In addition, complaint can be made to the Ombudsman where there is thought to be procedural impropriety.
25. The intention is for the MO to gain experience of the operation of the new Code of Conduct and the new procedures over the coming year and, if necessary, make recommendations for change to the Standards Committee and report further to Council as may be considered necessary as set out at recommendation (j) to this report.

The Register of Members’ Interests

26. In this report Members are particularly referred to the fact that The Localism Act abolishes the concept of personal and personal and prejudicial interests. Instead, Regulations define “Disclosable Pecuniary Interests” (DPI’s). The MO is required to maintain a register of interests, which must be available for inspection and available on the Council’s website. The MO is also responsible for maintaining the register for Parish/Town Councils which also have to be open for inspection at the District Council offices and on the District Council’s website. Where possible the MO will provide a link from the District Council website to the Parish/Town Council website to save the repetition of information.
27. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 sets out in some detail a description of what amounts to DPI’s. However, the Localism

Act 2011 specifies that a relevant authority must also secure that its Register includes the provision of interests other than pecuniary interests called non pecuniary interests (NPI's). The NPI's are not defined by legislation and are those interests that the authority considers to be appropriate to disclose.

There is some similarity between DPI's and the old prejudicial interest definition. However, there are some important differences, the most significant of which is that where a Member has a DPI it is a criminal offence to:

- Fail to register the interest;
- Fail to disclose it at a meeting (unless it has already been registered);
- Participate or vote on any matter in which a member has a DPI unless they have obtained a dispensation from the Council;
- Take any action on a matter in which a member has a DPI, in their capacity as a member of the Executive (other than to refer it to another member of the Executive).

28. Standing Orders can provide for the exclusion of a Member from any meeting while any discussion or vote takes place on the matter as set out in recommendation (g) to this report and as suggested by section 31(10) of the Localism Act 2011. The reasoning behind this is that under the new rules many DPI's will not need to be disclosed at meetings and this could be confusing for members of the public who will then need to read the Register of Members' Interests to ascertain whether a member has or has not a DPI. The requirement to withdraw from the meeting will make it transparent to those attending the meeting that a DPI exists in relation to the Member who has withdrawn.

Unlike 'prejudicial' interests under the old Code, a Member with a DPI has no ability to make representations, give evidence or answer questions prior to leaving the meeting.

The definition of a DPI is in some senses broader than the existing 'prejudicial' interest. In particular, the requirement to register a DPI applies not only to the interests of the Member, but also those of their spouse/civil partner (or a person with whom they are living as husband/wife or as if they were civil partners) where the Member is aware that the other person has the interest.

On a practical level, the consequence of the recent publication of the DPI Regulations is as follows:

- Members will need to register all those interests which fall within the definition of a DPI as soon as possible. The MO sent out a new Declaration of Interest Form prior to this report so that Members would have the capability of complying with the requirements of the Regulations by the implementation date of the 1st July 2012.
- The Localism Act at section 28(2) states that as well as the Register disclosing pecuniary interests (DPI's), the Register has to disclose interests other than

pecuniary interests which this authority call non disclosable interests (NPI's). For the NPI's we have defined these as being as follows:-

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which the member of the Council is a member or in a position of general control or management;

- (iii) any gifts or hospitality worth more than an estimated value of £25 or more which the member has received by virtue of his or her office.

These used to be personal interests and so equate to NPIs. Members are referred to the fact that we already have a Protocol on Gifts and Hospitality set out within our Constitution at Appendix K together with a notification form which can be completed by Members if and when necessary to be attached to the NPI part of the Member's Register.

- If you attend any meeting of Council, Cabinet, Committee or Sub-Committee after 1st July 2012 and prior to registering your DPI's you will need to disclose to the meeting the existence of those interests where they relate to a matter under consideration.
- Any interests disclosed at a meeting will also need to be disclosed to the MO within 28 days thereafter.
- The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. So where a Member is concerned that disclosure of the details of an interest, either a DPI or an NPI at a meeting or on the Register of Members' Interests would lead to the Member or a person connected with him/her being subject to violence or intimidation, he/she may request the MO to agree that the interest is a "sensitive interest". If the MO agrees, the Member then merely has to disclose the existence of an interest, rather than the details of it, at a meeting, and the MO can exclude the detail of the interest from the published version of the Register of Members' Interests.
- Council is asked to agree the new Register of Interests Form as set out at Appendix 6, recommendation (f) to this report.

Dispensations

29. The provisions on dispensations are significantly changed by the Localism Act. In future, a dispensation will be able to be granted only if, after having had regard to all relevant circumstances, the authority considers:-
- that so many Members of the decision-making body have DPI's 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 (Ground under s.33(2) (a) of the Localism Act),
 - that, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business (Ground under s.33(2)(b) of the Localism Act),
 - that granting the dispensation is in the interests of persons living in the authority's area (Ground under s.33(2)(c) of the Localism Act),
 - that without a dispensation, no Member of the Cabinet would be able to participate on the matter to be transacted by Cabinet. In practice this means that Cabinet would be inquorate (Ground under s.33(2)(d) of the Localism Act),
 - that the authority considers that it is otherwise appropriate to grant a dispensation (Ground under s.33(2)(e) of the Localism Act).
30. Under the new regime the power to grant dispensations can be delegated to a Standards Committee, or a Sub-Committee, or to the MO. Grounds under s.33(2)(a) and (d) are quite objective, so it is recommended to delegate dispensations on these grounds to the MO thus enabling many dispensations to be granted "at the door of the meeting". Grounds under s.33(2)(b), (c) and (e) are more subjective and so it is recommended that the discretion to grant dispensations on these grounds is delegated to the Standards Committee. These recommendations are set out in Appendix 7, recommendation (h) to this report.
31. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.
32. Under the new legislation Parish/Town Councils now have the responsibility for granting their own dispensations.

Key Implications

Financial

33. It is too early to assess the overall financial implications of the introduction of the new standards regime on the Council. On the one hand it can be anticipated that the new registration of interest requirements will create additional administrative work for the MO and supporting officers, particularly in its initial stages. In addition, following late amendments to the bill through the parliamentary process

responsibility for policing Parish/Town Councils was given to District Councils in relation to Member complaints and also in relation to registration of Member Interests. However, other changes to the Code and a streamlined procedure for the assessment of allegations in their initial stages should reduce the need for meetings of the Standards Committee and any Sub-Committees.

Community Impact and Outcomes

34. As the legislation sets out clearly that an authority must promote and maintain high standards of conduct by Members and Co-opted Members of the authority, the community should not be aware of any impact or outcomes as it is anticipated that a seamless transfer to the new system will take place.

Legal, Human Rights etc.

35. The proposals contained within the report comply with the provisions of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Resource (non-financial)

36. As the Code of Conduct and the detailed procedures are changed there will be a need for training at the District Council level. The Council may also consider it appropriate if training at the Parish/Town Council level takes place although this is not a requirement of the Localism Act.
37. There are increased registration requirements for the District Council under the new arrangements.

Value For Money and Asset Management

38. The new streamlined procedures should produce value for money. In addition, a smaller Standards Committee should produce savings in relation to the claiming of allowances and expenses.

Equality Impacts

39. It is suggested that there are no specific equality implications arising from these proposals. These proposals do not have any particular implications regarding one “protected group” over another. The Explanatory Note to The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 states “A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.”

Sustainability Checklist

40. These proposals are considered to have a neutral impact on sustainability.

Conclusions

41. Under the provisions of the Localism Act 2011 the existing Standards regime ceased to operate from the 30th June 2012. The transitional arrangements are very limited and do not allow for the old arrangements to continue. The Act puts in

place from the 1st July 2012 a system requiring Members to notify the MO of a new form of interests DPI's and NPI's and requires the MO to maintain a public register of those interests. Additionally, the Council must, with effect from the 1st July 2012 adopt a new Code of Conduct and put in place arrangements for investigating allegations of breaches and for making decisions in respect of those allegations.

42. As a result of the late implementation of the Regulations supporting the Localism Act Members will appreciate that there is no time for consideration of alternatives and that one of the Codes illustrated within Appendix 2 needs to be adopted at this meeting along with the arrangements presented for adoption.
43. As indicated by this report at recommendation (j) the Standards Committee will keep the Code and Arrangements under review and report further to the Council as is considered necessary.

Risk Assessment Statement

44. The Council needs to ensure that appropriate arrangements are now in place to ensure compliance with the legislation. Failure to comply with the requirements of the Localism Act 2011 could create a challenge to the Council's Governance Arrangements.

Appendices

Appendix 1 – The Task Group's Comments on the proposals. (*to follow*)

Appendix 2 – Draft Codes of Conduct.

Appendix 3 – Standards Committee and Terms of Reference and Delegations.

Appendix 4 – Revised Procedures for dealing with Misconduct Complaints including Delegations to the MO.

Appendix 5 – Procedures for making a recommendation for the Appointment of an Independent Person.

Appendix 6 – The New Form of Members Register of Interests.

Appendix 7 – The Granting of Dispensations.

Background Papers:

- a) The Localism Act 2011
- b) The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012
- c) The Relevant Authorities (Disclosable

Pecuniary Interests) Regulations 2012

- d) Notes of the Task Group
- e) Precedents and Information produced by Bevan Brittan
- f) Precedents produced by the Association of Kent Secretaries
- g) Model draft Codes as set out within the body of the report
- h) The Council's Code of Conduct existing arrangements for handling allegations of Member misconduct as set out within the Council's Constitution
- i) Existing Codes and Procedures appropriate to the existing Standards Arrangements as set out within the Council's Constitution

Contact Officer(s):

Christine Nuttall – ext. 7245