

STANDARDS COMMITTEE – 26 JANUARY 2012

THE NEW CODE OF CONDUCT

Report of the: Monitoring Officer

Status: For Information and discussion

Executive Summary: The new standards provisions are set out in the Localism Act 2011. These provisions apply amongst others to all District Councils and Parish and Town Councils. Every authority will be under a duty to promote and maintain high standards of conduct by elected and co-opted member of the authority. Each authority is required to adopt a Code of Conduct. The powers of the Secretary of State to specify general principles and issue a model code are revoked, along with the current 10 General Principles of Conduct and the Model Code. The Act requires an authority's Code to be consistent with the seven Nolan principles of conduct in public life.

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: The contents of this report be noted

Introduction

- 1 Each authority is required to adopt a Code of Conduct, which can only apply to members and co-opted members when acting in their capacity as a member or co-opted member. Private life is not covered. The powers of the Secretary of State to specify general principles and issue a model code are revoked, along with the current 10 General Principles of Conduct and the Model Code, but the Localism Act 2011 (the Act) requires an authority's Code to be consistent with the seven Nolan principles of conduct in public life.

The New Code

- 2 The seven Nolan principles that the new Code must reflect are Selflessness, Integrity, Honesty, Objectivity, Accountability, Openness and Leadership. Apart from these principles Authorities are free to determine what they put in or leave out of a Code though section 28(2) of the Act does require the inclusion of the provisions the authority considers appropriate in respect of the registration in its register and disclosure, of interests. Any decision to adopt a local Code must be taken at full Council, and all standards matters are to be non-executive functions.

Consequences of Abolition

- 3 The abolition of the Model Code means that different authorities may have different Codes. A Member who is a Member of more than one authority is likely to be subject to different Codes, according to which authority he/she is currently acting on. Members who are on joint committees could be subject to the varied Codes of their different parent authorities.
- 4 The requirement for Members to give an undertaking to comply with the Code of Conduct is removed although it will be considered reasonable to expect compliance from responsible Members of a public body.
- 5 The Association of Council Secretaries and Solicitors (ACSeS) are working on a draft Model New Code a copy of which is set out within the Appendix. However, this Code cannot be finalised until it is known from Regulations to be issued by the Secretary of State what is covered by the new criminal provisions. Assuming the descriptions of interests regulations are a month or so away, work on the ACSeS model Code will not be completed until February or, perhaps, March.
- 6 From the draft Model Code set out in the Appendix, Members are referred to paragraphs 9 and 10 under the heading Pre-determination or bias. The predetermination section (section 25) of the Localism Act is in force from 15 January 2012. Members can now say in public their legitimate views on issues yet to be decided although caution is still recommended in relation to any action taken that may be perceived as bias.
- 7 There are some advantages in adopting a Code that has the backing of a national organisation who have committee resources and expertise to its creation. Such a Code is likely to be widely adopted which will have the benefit of creating consistency.

Key Implications

Financial

- 8 No financial implications are arising from this report.

Community Impact and Outcome

- 9 The community will expect the Council to operate to the highest ethical standards as envisaged by the Act.

Legal, Human Rights etc.

- 10 It is anticipated that there will be case law emerging in relation to s.25 of the Act this being predetermination.

Conclusions

- 11 There is a legitimate concern that different Codes of Conduct across authorities will give rise to confusion in their application and understanding.

Risk Assessment Statement

- 12 There is concern that the Act does not provide a clear and cohesive framework for local government to work to. Further regulations are awaited which may help to clarify the position and ACSeS are working to try and produce uniform recommended code provisions.

Appendices

Appendix – Draft Code of Conduct

Background Papers:

The Localism Act 2011

AcseS Bulletins

Draft Code of Conduct

Eversheds' Local Government Briefing Note 83/2011

The Local Government Law an article entitled "All in the Mind" by Graeme Creer, a partner at Weightmans

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