

Bath & North East Somerset Council

MEETING:	Standards Committee
MEETING DATE:	26 April 2012
TITLE:	Update on the new Standards Regime - Update
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
1. Extract from minutes of Council meeting on 15 September 2011	
2. LGA draft code of conduct	
3. DCLG illustrative code of conduct	

1 THE ISSUE

To update members on the introduction of the new standards regime

2 RECOMMENDATION

The Standards Committee is asked to:

2.1 Consider the report and comment on the issues contained in it.

3 FINANCIAL IMPLICATIONS

3.1 It is intended that the new regime will be managed within current resources although there may be one additional cost, and that is the remuneration of the duly appointed Independent Person(s).

4 THE REPORT

4.1 Members previously received a report on proposed changes to the Standards Regime in June 2011 and the Council later considered a report in September 2011. The Council minutes relating to that report are set out in appendix 1 to this report.

4.2 The Localism Bill received Royal Assent on 15 November 2011.

4.3 The Localism Act makes fundamental changes to the system of the regulation of standards of conduct for elected and co-opted councillors. The date for the implementation of these changes was initially proposed to be 1 April 2012 but is now 1 July 2012.

Code of Conduct

- 4.4 The Council is placed under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.
- 4.5 The current general principles and Model code of conduct will no longer apply. The Council is required to adopt a new code of conduct governing elected and co-opted members 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
- 4.6 The Council has discretion as to what it includes in its new code, provided that it is consistent with the seven principles. The LGA has recently produced a model code (see appendix 2 to this report) and the DCLG has produced an illustrative list of what a local authority code of conduct might look like (see out in appendix 3 to this report). Neither code is considered to be satisfactory, and work is being done by the West of England authorities to produce a revised model code for adoption by each authority.

Pecuniary Interests

- 4.7 Regulations, still to be made under the Localism Act, will require the registration and disclosure of "Disclosable Personal interests" (DPI's).

The Act also requires an authority's code to contain arrangements it considers appropriate for the registration and disclosure of other pecuniary interests and non-pecuniary interests.

- 4.8 The Act makes it a criminal offence to fail to register a DPI and prohibits members with a DPI from participating in authority business. A person found guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale, which is currently £5,000. In addition on conviction the Court may also disqualify the member in question, for a period not exceeding 5 years from being or becoming a member or co-opted member of an authority. Prosecutions will only be able to be instituted by or on behalf of the Director of Public Prosecutions.

Dealing with Misconduct complaints

- 4.9 The Act requires the Council to adopt arrangements under which allegations of a breach can be investigated and a decision made regarding the allegations. Such

complaints can only be dealt with in accordance with such arrangements. Therefore the arrangements must set out in some detail the process for dealing with complaints and actions which may be taken against a member who is found to have failed to comply with the relevant Code of conduct.

4.10 The Act repeals the requirements for separate referral and review sub-committees. As the statutory provisions will no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it would be necessary for Council to delegate appropriate powers to any Standards Committee which may be set up and to the Monitoring Officer to deal with such matters under the new Code.

Independent Person

4.11 The arrangements to be adopted by Council must include provision for the appointment by Council of at least one Independent Person. 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 Council (i.e. not just of those who are present and voting).

4.12 A person is considered not to be independent if he/she is or has been within the last 5 years, an elected or co-opted member or officer of the Council; or has been within the last 5 years, an elected or co-opted member of any committee or sub-committee of the Council or a relative or close friend of a current elected or co-opted member of the Council or of any elected or co-opted member of any committee or sub-committee of the Council.

4.13 The functions of the Independent Person(s) are –

- *Their views must be sought and taken into account where the Authority has decided to investigate an alleged breach, 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 where this relates to an allegation that it has decided to investigate – but not before the Council makes a decision to investigate

- * 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 Council against whom a complaint has been made.

4.14 As the Independent Person is not a member of the Council or of its Committees or sub-committees, the remuneration of the Independent Person is a matter for the Council

4.15 The West of England authorities are currently considering placing a joint advertisement for Independent Persons and having a joint interview panel. It is considered that it would be appropriate for there to be two Independent Persons for this council with possibly another as a reserve.

Members' interests

4.16 The Localism Act abolishes the concepts of personal and prejudicial interests. Instead regulations will define Disclosable Pecuniary Interests (DPI's). The Monitoring Officer is required to maintain a register of interests, which must be

available for inspection and available on the Council's website. Each elected or co-opted member must register all DPI's within 28 days of becoming a member. Failure to register is made a criminal offence. There is no continuing requirement for a member to keep the register up to date except on re-election or re-appointment. However there is a requirement to update the register within 28 days of a meeting at which the member was present and an unregistered DPI arose.

4.17 Arrangements are in place to update the register of interests page on the Council's website and guidance will be provided to members when the DPI's are known.

Parish and Town Councils

4.18 Parish and Town Councils are required to adopt a code of conduct. This Council is required to have arrangements in place to deal with complaints against parish councillors including arrangements under which decisions on allegations can be made.

4.19 Parish and Town Councillors are required to register their interests. The Monitoring Officer is required to ensure that every Parish and Town Council's register is available on this Council's website and if the Parish/Town Council has a website it must ensure that its register is accessible on that website.

4.20 Arrangements are being put in place to publish Parish and Town Councils' registers of interest on the Council's website. Guidance on interests will also be made available to Parish and Town Councils.

5EQUALITIES

5.1 There are no specific equalities impacts arising from this report

6CONSULTATION

6.1 The Government has undertaken various consultations as part of the introduction of the Localism Act. However, there was no specific consultation on the form of the provisions relating to the code of conduct or other standards provisions which form part of the Act.

7ISSUES TO CONSIDER IN REACHING THE DECISION

7.1 There are set out in the body of the report.

8ADVICE SOUGHT

8.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) is the author of this report.

Contact person	Vernon Hitchman 01225 395171
Background papers	<i>List here any background papers not included with this report because they are already in the public domain</i>
Please contact the report author if you need to access this report in an	

alternative format