

<b>Subject:</b>	Localism Act 2011 and Standards Arrangements Update		<b>Status:</b>	For Publication	
<b>Report to:</b>	Standards Committee Council		<b>Date:</b>	6 <sup>th</sup> March 2012 21 <sup>st</sup> March 2012	
<b>Report of:</b>	Director of Business		<b>Portfolio Holder:</b>	Customers, Legal and Licensing	
<b>Key Decision:</b>	No – reserved for Full Council	Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>	
<b>Community Impact Assessment:</b>	Required:	No	Attached:	No	
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached:	No	
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<b>1.</b>	<b>RECOMMENDATION(S)</b>
1.1	That members note the Localism Act 2011 update and the results of the Standards Survey.
1.2	That members recommend that the Council maintains the existing Code of Conduct and current procedures for dealing with complaints at a local level until full guidance is available, when a report will be brought to full Council.
1.3	That members recommend officers to start the advertising and recruitment process for two new independent persons.

## 2. PURPOSE OF REPORT

- 2.1 To update members of the requirements of the Localism Act 2011 in relation to standards arrangements.

## 3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

## 4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- Failure to comply with the Localism Act 2011 may risk legal proceedings being taken against the Council.

## 5. BACKGROUND AND OPTIONS

- 5.1 The Localism Act 2011 gained Royal Assent on 15<sup>th</sup> November 2011. Under the Act Standards for England will be abolished and the government has now clarified that this will happen on 31<sup>st</sup> March 2012. Whilst Standards for England will be abolished, standards do not disappear and councils will be required to promote and maintain high standards of conduct by members and co-opted members of the authority.

- 5.2 In relation to the new arrangements the following timescales have been confirmed:

**31<sup>st</sup> January 2012**

- Standards for England will stop taking new cases.

**31<sup>st</sup> March 2012**

- Standards for England will be abolished and all ongoing cases will be returned to local authorities.

### **1<sup>st</sup> July 2012**

- Existing code of conduct will be abolished.
- Requirement to have a Standards Committee will be abolished
- Failing to declare or register an interest will become a criminal offence.
- Sanctions of disqualification and suspension will be abolished.
- New duty for councils to promote and maintain high standards of conduct by members and co-opted members of the authority comes into effect.

5.3 From 1<sup>st</sup> July 2012 councils will be expected to have new arrangements in place to deal with standards issues. This includes:

- Adopting a code of conduct dealing with the conduct expected of members and co-opted members of the authority when they are acting in that capacity.
- Appointing independent person/s whose views will be sought on any allegations made.
- Adopting arrangements under which allegations can be investigated and decisions made.
- Maintaining a register of members interests and publishing it on the council's web site.

### 5.4 **Standards Committees**

The requirement to have a Standards Committee or independent chair will be abolished on 1<sup>st</sup> July 2012. However, councils are still required to promote and maintain high standards and adopt a process for dealing with allegations of misconduct.

### 5.5 **New Code of Conduct**

Council's have the option of producing a new code of conduct or adopting the existing code of conduct (with any required revisions). Whilst it is entirely up to each council to decide on the contents of the code, the following must be included:

- The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. (see Appendix A – Appendix 1 for details of the principles)
- Provision for the registration and disclosure of “pecuniary” and “other” interests within 28 days. (Further guidance is awaited on disclosable pecuniary interests).

Other local authorities across Lancashire are currently looking to adopt the ACSES (Association of Council Secretaries and Solicitors) Code of Conduct. (See Appendix A) This is to ensure that the code of conduct will be similar across authorities for dual-hatted members.

### 5.6 **Independent Person/s**

Under the new requirements the authority must appoint at least one independent person whose views must be sought before a decision is made on an allegation. It is recommended that two independent persons are appointed to cover for holidays/absence or where there is a conflict of interest.

The council will need to recruit for independent person/s, as past independent members of the Standards Committee would not be permitted to take on the role of “independent person” for the same authority under the 2011 Act. The independent person must not have been a councillor, co-opted member or officer of the authority (or parish council) within the last 5 years. In appointing independent persons, the council must advertise and applicants must submit an application and be selected to the post. It is proposed to advertise on the council web site, through community groups, placing posters on neighbourhood notice boards, and also appealing to current independent members serving at neighbouring authorities (to maximize the chances of recruiting someone with existing experience of dealing with

standards allegations). The appointment/s must be agreed by full Council and appointees will be paid travel expenses.

#### 5.7 **Process for dealing with allegations and details of sanctions**

The council is required to ensure there are arrangements in place for investigating allegations and issuing decisions. Whilst it is entirely up to each council to decide on these arrangements an independent person must be consulted before a finding/decision is made.

As of 1<sup>st</sup> July 2012 failing to declare or register an interest will become a criminal offence and the sanctions of disqualification and suspension will be abolished. All powers to impose a penalty must be approved by full Council. Possible penalties can include training, removal from a committee/outside body, censure etc. (Further details are awaiting in relation to criminal offences and sanctions)

#### 5.8 **Register of Interests**

A register of interests must be kept by the Council (for members and co-opted members), it must also be published on the Council's web site. The Council is also responsible for maintaining and publishing the register of interests for Whitworth Town Council (see additional details at 5.10 for Parish Councils).

Whilst it is for the relevant authority to determine what is to be entered into the register there are statutory requirements in relation to disclosure of pecuniary interests. Pecuniary interests must be declared within 28 days of taking office. A pecuniary interest can relate to:

- That of the member/co-opted member, or
  - o That of their spouse/civil partner
  - o That of someone the member is living with as husband/wife
  - o That of a person they are living with as if they were a civil partner (where the member is aware that the other person has the interest)

Where meetings are concerned a member/co-opted member must disclose a pecuniary interest at the start of the meeting if the interest is not already disclosed in the register of interests.

Once a member/co-opted member becomes aware they have a pecuniary interest they must disclose it to the Monitoring Officer within 28 days.

A member/co-opted member may not participate in discussion at meetings or take a vote on any matter where they have a pecuniary interest.

In relation to sensitive interests if a member/co-opted member and the Monitoring Officer feel there is risk of violence or intimidation, an interest can be withheld from the register. However the register of interests may be required to state that the member/co-opted member has an interest the details of which are withheld under subsection 32(3).

(Further guidance and clarification is awaited on the Register of Interests as well as information on Offences).

#### 5.9 **Dispensations**

Dispensations can be granted by the proper officer to a members with a disclosable pecuniary interest to allow them to speak/vote, but before a dispensation is made a time period must be specified and be no longer than a period of 4 years. Dispensations can be granted for the following reasons:

- The number of members prevented from speaking/voting would impede the transaction

of the business.

- Political imbalance would affect the outcome of the vote.
- Members of the Cabinet would be prohibited from participating in any particular business.
- Dispensation would be in the interests of people living in Rossendale.
- It is considered appropriate to grant a dispensation.

To be granted a dispensation a written request must be made to the proper officer.

#### 5.10 **Parish Councils**

From 1<sup>st</sup> July 2012 Parish Councils will be required to:

- Adopt a code of conduct (which can be the same as Rossendale Council).
- Promote and maintain high standards of conduct of members and co-opted members.

In relation to allegations of misconduct, these are to be dealt with by Rossendale Council under their agreed procedure. Rossendale Council will also be responsible for maintaining a register of members interests for parish councillors and publishing it on Rossendale Council's web site. If the parish has its own web site, which Whitworth Town Council does, members interests must also be published on Whitworth Town Council web site.

- 5.11 A standards questionnaire was circulated to members in January to seek their views in relation to standards matters. A copy of the results have been included at Appendix B.

### **COMMENTS FROM STATUTORY OFFICERS:**

#### **6. SECTION 151 OFFICER**

- 6.1 There are no material financial implications.

#### **7. MONITORING OFFICER**

- 7.1 All legal implications are commented upon in the body of the report.

#### **8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)**

- 8.1 There are no HR implications arising from the report.

#### **9. CONSULTATION CARRIED OUT**

- 9.1 Statutory Officers, Legal Officers, Governance Working Group and Committee and Member Services.

- 9.2 A survey was sent to all members seeking their views on future arrangements. Results of the survey are attached at Appendix B.

#### **10. CONCLUSION**

- 10.1 The Council is required by law to fulfil the requirements of the Localism Act 2011 as well as maintain a Constitution and regularly update the document.

#### Background Papers

Document	Place of Inspection
The Constitution of the Council	<a href="http://www.rossendale.gov.uk/constitution">www.rossendale.gov.uk/constitution</a>
Localism Act 2011	<a href="http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted">www.legislation.gov.uk/ukpga/2011/20/contents/enacted</a>