

STANDARDS COMMITTEE	AGENDA ITEM 3
14 March 2012	PUBLIC REPORT

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LOCALISM ACT 2011

R E C O M M E N D A T I O N S
That the Standards Committee: (1) Notes the contents of the report (2) Considers any recommendations it may wish to make to Council

1. A NEW STANDARDS REGIME

1.1 Upon election it was the Government's stated intention to abolish the 'standards board regime'. The Localism Act 2011 Act received Royal Assent in November 2011 and has clarified what the Government intended by that statement:

- (1) That Standards for England, the regulatory body, is to be abolished
- (2) The Code of Conduct is to remain compulsory, although members will be free to decide upon some of its content
- (3) The Code is to include new provisions about pecuniary interests which will carry criminal penalties for failure to comply, although the information regarding what constitutes a 'disclosable pecuniary interest' is to be defined in Regulations not yet released
- (4) That there will be new arrangements for considering any breach of the Code of Conduct, such arrangements to be at the discretion of members
- (5) New independent persons are to be appointed in a different role.

1.2 The date for implementation of these changes is 1st July 2012. The Standards Committee is to consider the changes in more detail and make recommendations for Council to consider in April. The purpose of the Standards Committee is to play an advisory role only, with members being the ultimate decision makers on all the proposals.

1.3 The purpose of this report is to consider the proposed changes and make recommendations to Council regarding the different options available to it.

2. THE CAMBRIDGESHIRE APPROACH

2.1 It had initially been intended that a working party of standards committee members and Monitoring Officer would be set up to look at the proposed changes brought about by the Act. It has however become apparent since the Act was published that many of the discretions that were to appear in the Act have been removed.

2.2 The Monitoring Officers and Deputy Monitoring Officers of the seven Cambridgeshire authorities have instead been meeting regularly to discuss the implementation of the changes. These officers are recommending to their respective authorities that a county wide approach is taken to the implementation of the new changes. It is believed that this shared service approach will provide a cost effective and efficient means of implementing the changes.

- 2.3 The officer group intend to recommend a common code of conduct, shared independent persons appointed following a joint recruitment process and a common set of arrangements for dealing with breaches of the code. Those joint proposals are outlined in this report. This approach has yet to be sanctioned by the members of this Council

3. CODE OF CONDUCT

- 3.1 The requirement to have a code of conduct is mandatory but there is discretion about what the Code is to contain, so long as it gives effect to the Nolan principles. A draft model code is in preparation by the Local Government Association working with the Association of County Secretaries and Solicitors but there is no fixed date for release of that draft Code.
- 3.2 The officer group of the Cambridgeshire authorities have together decided to consider a draft code based upon paragraphs 3 – 7 of the existing code of conduct (see annex A). This is because the existing paragraphs of this Code correspond largely to the Nolan principles and are familiar to the members. That code is currently in preparation and is expected to be considered at a further meeting of the officer group on the 2 April 2012. Whether that code will be acceptable to members is a matter they will have to consider at a later meeting.
- 3.3 The Code will have to contain a requirement to register ‘disclosable pecuniary interests’ (DPIs). These DPIs will be prescribed in regulations but there is no fixed date for release of those regulations.
- 3.4 Councils may also include within the code the requirement to register such other interests as they think fit however until it is known what interests it will be mandatory to disclose it is difficult to assess what discretion the members may wish to exercise.

4. THE FUTURE OF THE COMMITTEE

- 4.1 As expected, there is no requirement in the Act for a Standards Committee. There remains, however, a requirement to have a process to deal with breaches of the Code of Conduct. The question for members will be to decide what new arrangements should be put in place.
- 4.2 The Act does allow members to decide how complaints should be processed. At present any complaint made is automatically referred to the standards committee who make the decision whether to refer the matter for investigation. This has meant that a Committee meeting has to be convened at short notice to deal with some trivial and minor complaints. A widely recognised advantage of the Act is that the new arrangements would allow the Monitoring Officer to filter the complaints and only refer the more serious complaints on for investigation, with the Committee only sitting to consider the outcome of the investigation. This would not only improve the speed with complaints are dealt with but would also allow greater scope for informal resolution of complaints.
- 4.3 In common with other authorities it is considered appropriate that there ought to be some form of standards committee to hear the complaint where the investigation report concludes there has been a breach of the code. Some Councils are maintaining a separate standards committee but others are dealing with this through a sub-committee of the audit committee. That will be a decision for the members.
- 4.4 Any such committee will be governed by political proportionality (i.e. the political membership will have to reflect the political make up of full Council), unless the Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply.
- 4.5 The rules for access to meetings and to papers will be the same for a new standards committee as for other ordinary committees of the Council. So meetings will be held in public and papers subject to advance public disclosure (unless exempt).

- 4.6 The Act does not give the Council or its Standards Committee any powers to impose sanctions for breach of the Code, such as suspension or requirements for training or an apology on members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited.

5. INDEPENDENT PERSONS

- 5.1 Under the Act the current co-opted independent members will cease to hold office upon implementation of the new process. The Act establishes a new category of Independent Persons and provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years.
- 5.2 The Independent Persons will have an entirely different role to the existing independent members. The Independent Persons are not co-optees and therefore cannot sit as part of the standards committee. This also means the chair of the 'standards' committee will be a councillor.
- 5.3 The independent persons will not be paid a members allowance but will be remunerated separately by the authority to which it is appointed.
- 5.4 Currently the officer group is considering a joint recruitment exercise with the other Cambridgeshire authorities to appoint a county wide set of independent persons. The recruitment exercise is intended to identify up to 5 persons across the county for this role. Each authority would appoint a single one of the 5 persons to be the independent person (meaning therefore that an independent person may be appointed to more than one authority) with a further 1 member appointed as a substitute.
- 5.5 Recruitment costs will be saved by undertaking a single recruitment process across the county rather than recruiting separately in each authority.
- 5.6 Existing Independent members are not prevented from applying for the post of independent person provided that they are not appointed to the authority to which they have previously served as an independent member.

6. CONSULTATION

- 6.1 This report has been distributed to each of the parish councils within the Peterborough area as the City Council is the parent authority for the purposes of the standards regime.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The Standards Committee believes that Council's endorsement of the contents of this report will enable it to fulfil the function of promoting high standards of ethical behaviour within the authority.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The Council is required to set up a Standards Committee by the Local Government Act 2000.

9. IMPLICATIONS

- 9.1 There are no financial or legal implications, other than those contained within the body of the report.

10. BACKGROUND DOCUMENTS

- 10.1 Reports to the Standards Committee in the last civic year.

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