



STANDARDS COMMITTEE REPORT

Report Title	The New Standards Arrangements – The Localism Act 2011
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AGENDA STATUS:

PUBLIC

Committee Meeting Date:	18 June 2012
Policy Document:	Yes
Directorate:	Chief Executive's

1. Purpose

- 1.1 This report sets out the changes that the Localism Act 2011 makes to the system of regulation of standards of conduct for elected Councillors and any Co-opted Members. Although these changes come into effect from 1 July 2012 the Regulations supporting the Act were only published on 8 June 2012.

2. Recommendations

That Council be recommended to:

1. Disestablish the existing Standards Committee with effect from 30 June 2012.
2. Establish a Standards Committee, with effect from 1 July 2012, comprising nine Councillors and that the Standards Committee appoint such Co-opted Persons that it considers appropriate as set out in Article 10 of the Council's Constitution (Appendix A).
3. Approve the number of seats on each Committee as set out in paragraph 3.3.1 of the report.
4. Confirm the representation of the political groups as twenty five Conservative seats, sixteen Labour and four Liberal Democrat.

5. Agree that Group Leaders notify the Chief Executive of their appointees to the new Standards Committee including the naming of the Chair and Deputy Chair.
6. Approve the Members' Code of Conduct set out in Appendix B of the report.
7. Approve the Arrangements for Dealing With Allegations of Breaches of the Northampton Borough Council Code of Conduct and Codes of Conduct Adopted by Parish Councils set out in Appendix C of the report.
8. Authorise the Monitoring Officer to take the necessary steps under the transitional arrangements and to appoint Independent Persons.
9. Authorise the Monitoring Officer to determine the appropriate payment for Independent Persons.
10. Amend the Council's Constitution in respect of Responsibility for Functions as set out in Appendix D.
11. Approve the amendment of the Monitoring Officer's Delegations and the Proper Officer's Appointments under Part 8 of the Constitution in accordance with Appendix E.
12. Authorise the Monitoring Officer to undertake any other minor adjustments necessary to implement the report and appendices.

3. Issues and Choices

3.1 Report Background

3.2.1 Standards Committee

3.2.2 The Localism Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. Whilst there is no longer a requirement for a statutory Standards Committee, the authority remains under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. There will still be a need to deal with standards issues and case-work. The Monitoring Officer's view is that the best way to discharge these functions is through a Standards Committee which would be a normal Committee of Council, governed by proportionality (see paragraph 3.3.1 below). The current Co-opted Independent Members cease to hold office. The Localism Act establishes a new category of Independent Persons (see paragraph 3.6.1 below) who must be consulted at various stages. The Independent Persons can be invited to attend meetings of the Standards Committee but they would not have any voting rights. The transitional arrangements allow for existing independent members to be appointed as Independent Persons and it is proposed that the

Monitoring Officer take the necessary steps for the current Independent Members of the Standards Committee to fill these positions.

- 3.2.3 The Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils, but the current Parish Council representatives cease to hold office. The Council can choose whether it wants to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. This aspect of the old standards arrangements has worked well and the Parish Council representatives on the Standards Committee have provided a valuable insight into parish council matters. With the likely creation of further Parish Councils as a result of the current Community Governance Review, the contribution of Parish Council representation on a new Standards Committee may prove to be even more valuable than hitherto.
- 3.2.4 It is proposed that the existing two Parish Council representatives be co-opted in a non voting capacity on to the new Standards Committee.
- 3.2.5 Article 10 of the Council's Constitution has been redrafted to take account of a new Standards Committee (see Appendix A). The redrafted Article sets out the composition of a new committee, its role and also to the creation of a Hearings Panel and its role in dealing with allegations of breaches of the Council's Code of Conduct (see paragraph 3.4.1).
- 3.2.6 It will be necessary to disestablish the existing Standards Committee in order to create a new committee.
- 3.3.1 Proportionality
- 3.3.2 As described in paragraph 3.2.2 above, a new Standards Committee will be a proportional committee. Council last considered proportionality at the annual meeting on 24 May 2012 and noted the current composition of the Groups as twenty five Conservative seats, sixteen Labour and four Liberal Democrat. This has not changed in the intervening period.

The existing sixty allocated Committee places divides as thirty three Conservative, twenty one Labour and five Liberal Democrat and the allocation of seats between the Committees is as follows:

Committee	Conservative	Labour	Liberal Democrat	Total
Audit	4	3	1	8
Overview & Scrutiny	8	5	1	14
Planning	7	4	1	12
Licensing	6	4	1	11
Appointments and Appeals	3	2	1	6

General Purposes	5	3	1	9
<u>Totals</u>	33	21	6	60
Proportionality would be:	33.3	21.3	5.3	69

3.3.3 A nine member Standards Committee would increase the number of allocated Committee places to sixty nine and this would divide as thirty eight Conservative seats, twenty four Labour and six Liberal Democrat. The allocation of seats between the Committees would be as follows:

Committee	Conservative	Labour	Liberal Democrat	Total
Audit	4	3	1	8
Overview & Scrutiny	8	5	1	14
Planning	7	4	1	12
Licensing	6	4	1	11
Appointments and Appeals	3	2	1	6
General Purposes	5	3	1	9
Standards	5	3	1	9
<u>Totals</u>	38	24	7	69
Proportionality would be:	38.3	24.3	6.3	69

3.4.1 The Code of Conduct

3.4.2 The Localism Act has repealed the existing Statutory Model Code of Conduct. However, the Council will be required to adopt a new locally agreed Code of Conduct governing elected and co-opted members' conduct when acting in that capacity, ie, it does not govern a Member's conduct (or a Co-opted member's conduct) when they are acting in a private capacity. The Council's new Code of Conduct must, when viewed as a whole, be consistent with the following seven Nolan principles:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

but otherwise it has discretion as to what it includes. Nationally, there has been some measure of agreement that whilst it is open for each local authority to devise its own Code of Conduct and procedures for dealing with allegations of breaches, it would be helpful for Members, who were members of more than one tier of local authority in an area, if there were to be a common structure or, indeed, a common Code of Conduct so that Members did not have to learn completely different versions depending on which local authority they were representing at any particular point in time. In Northamptonshire, the County Council, together with Cambridgeshire County Council, have put forward a draft Code of Conduct for the district councils to consider. Appendix B sets out a Code of Conduct for consideration. It is based on the County Council's draft but has been adjusted to make, where possible, the wording easier to understand and to take account of Regulations made since the draft was prepared.

3.4.3 The Localism Act has repealed the concept of Personal and Personal Prejudice Interests. Instead they are now replaced by Personal Interests, which can be locally determined, and Disclosable Pecuniary Interests (DPI) which are statutory. The details of both are included within Appendix B. Failure to disclose a DPI is potentially a criminal offence. The Act prohibits Members with a DPI from participating in those items of business or voting on them.

3.5.1 Dealing with Misconduct Complaints

3.5.2 The Localism Act requires that the Council adopt "arrangements" for dealing with complaints of breaches of the Code of Conduct both by District Council members and by Parish Council members, and such complaints can only be dealt with in accordance with such "arrangements". The "arrangements" must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct.

3.5.3 The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees and enables the Council to establish its own process, which can include delegation of decisions on complaints.

3.5.4 As with the Code of Conduct, there has been some national agreement that the arrangements for dealing with allegations of breaches of the Code of Conduct should be similar between tiers of local authority within an area. To this end Northamptonshire County Council, together with Cambridgeshire County Council, have proposed a set of arrangements for the district councils to consider. Appendix C sets out the proposed arrangements for the Council to deal with alleged breaches of the Code of Conduct. These arrangements would also apply to the Parish Councils as well, irrespective of whether they chose to adopt the Council's Members' Code of Conduct or a different one. The arrangements set out in Appendix C are broadly the same as those put forward in the County Council's draft. A drawback of the old arrangement was the lack of discretion given to Monitoring Officers to be able to deal with appropriate allegations by other means, other than through the formal statutory process. The Council's proposed arrangements give that discretion

to the Monitoring Officer. The sanctions that can be applied to a Member who has been found to be in breach of the Members' Code of Conduct are set out in Appendix C.

3.6.1 Independent Person(s)

3.6.2 The Localism Act requires the Council to appoint at least one Independent Person.

The functions of the Independent Person(s) are:

- they must be consulted by the authority and their views taken into account before the authority 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. (This means that their views must be sought on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- they may be consulted by the authority in respect of a standards complaint at any other stage; and
- they may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.

As it would be inappropriate for an Independent Person to be consulted by both the authority and the Member against whom the complaint has been made, and to give a measure of cover for unavailability, it would be sensible to have three Independent Persons.

3.6.3 The transitional arrangements allow for existing Independent Members to be appointed as Independent Persons and it is proposed that the Monitoring Officer takes the necessary steps to allow this to happen. However, if the existing Independent Members are unable or unwilling to adopt these new roles, the Monitoring Officer will seek whatever other arrangements are appropriate.

3.6.4 After the period of transition, Independent Persons must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of the Members of the Council.

Post the transition a person is considered not to be "independent" if:

- they are, or have been within the last five years, an elected or co-opted member or an officer of the District Council or of any of the Parish Councils within its area;

- there are, or have been within the last five years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish Councils within its area
- they are a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

3.6.5 As an Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of them no longer comes within the scheme of Members' allowances, and could therefore be determined without reference to the Independent Remuneration Panel. However, although the role is likely to be less onerous than that of the existing Independent Members, for example, an Independent Person would not chair the Standards Committee, it would be appropriate to undertake a proper review of the function before setting remuneration. Furthermore, in the interests of consistency across the county, it would seem appropriate for a Remuneration Panel, on behalf of all the Northamptonshire Councils, to consider the matter.

3.7.1 The Register of Members' Interests

3.7.2 The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Parish Councils, which also have to be open for inspection at the Council offices and on the Council's website as well as on any website that the Parish Council may have.

Disclosable Pecuniary Interests (DPIs) are set out in Appendix B. Councillors and Co-opted Members must register all DPIs within twenty eight days of becoming a member. Failure to register a DPI or participating in a relevant meeting with a DPI without reasonable excuse are made criminal offences, but would not prevent the Member from acting as a Member.

In so far as the Code of Conduct requires the registration of Personal Interests, failure to do so would not be a criminal offence, but a failure to comply with the Code of Conduct.

3.7.3 Whilst there is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, Members will need to register new interests from time to time as they arise from business at meetings. The requirements to disclose or disclose and withdraw from that part of the meeting are set out in Appendix B. These requirements also apply to delegated decisions made by a single Member.

3.8.1 Sensitive Interests

3.8.2 The Localism Act effectively continues the existing Code of Conduct provisions on Sensitive Interests. Where a Member is concerned that disclosure of the detail of an interest (either a Disclosable Pecuniary Interest

or any other interest which they would be required to disclose) at a meeting or on the register of Members' interests would lead to the Member or a person connected with them being subject to violence or intimidation, they may request the Monitoring Officer to agree that the interest is a "sensitive interest".

If the Monitoring Officer agrees, the Member then only has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

3.9.1 Dispensations

3.9.2 Dispensations will be able to be granted in the following circumstances:

- That so many members of the decision-making body have DPIs 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;
- That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
- That the authority considers that the dispensation is in the interests of persons living in the authority's area;
- That, without a dispensation, no member of the Cabinet would be able to participate on this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- That the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify how long it lasts for, up to a maximum of four years.

3.9.3 The Localism Act allows discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. It is proposed that the Monitoring Officer be delegated to grant dispensations together with the discretion to refer any particular request to the Standards Committee in appropriate circumstances.

3.10.1 Delegations

- 3.10.2 The Localism Act delegates specific roles to the Monitoring Officer in respect of Registers of Interests in terms of establishing and publishing registers and publishing Parish Council registers. The consequent additions to the Borough Secretary and Monitoring Officer's delegations are set out in Appendix E.
- 3.10.3 Section 33 of the Act enables a relevant authority, upon a written request to the Proper Officer from a Member or Co-opted Member. It is proposed that this power is delegated to the Monitoring Officer as outlined in paragraph 3.9.3 The consequent amendment to the Proper Officer Appointments is set out in Appendix E.
- 3.10.4 The Arrangements for Dealing With Allegations of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct Adopted by Parish Councils (Appendix C) propose delegations to the Borough Secretary as highlighted in paragraph 3.5.1 above. The consequent additions to the Borough Secretary's delegations are set out in Appendix E.
- 3.10.5 The Borough Secretary's delegations also include an authorisation to deal with any residual matters resulting from the Council's adopted Members' Code of Conduct and the Arrangements for Dealing With Allegations of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct Adopted by Parish Councils, also set out in Appendix E.

4. Implications (including financial implications)

4.1 Policy

The report sets out a new Members' Code of Conduct and Arrangements for Dealing With Allegations of Breaches of the Members' Code of Conduct resulting from the changes brought about by the Localism Act 2011.

4.2 Resources and Risk

There may be financial implications following consideration of any appropriate allowances by the Remuneration Panel. The legislation and regulations have been published hastily. The new processes may require adjustment in the future in the light of experience.

4.3 Legal

Contained within the report.

4.4 Equality

The new Members' Code of Conduct and the Arrangements for Dealing With Allegations of Breaches of the Members Code of Conduct will apply to all

elected Councillors and Co-opted Members and the Arrangements for Dealing With Allegations of Breaches of the Code of Conduct will also apply to all elected or appointed Parish Councillors.

4.5 Consultees (Internal and External)

None.

4.6 Other Implications

None.

5. Background Papers

None.

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