

5. LOCALISM ACT 2011

REPORT OF: Tom Clark, Solicitor to the Council and Monitoring Officer
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Wards Affected: All
Key Decision No

1. Purpose of the Report

- 1.1 To report that the Localism Act 2011 has now received royal assent. The changes to the Standards process, Councils are required to follow, are much reduced from the changes originally envisaged by the Localism Bill published last December.

2. Summary

- 2.1 The Localism Act 2011 will abolish Standards for England but in other respects the present scheme is maintained. All Councils will continue to have to have a Code of Conduct. The District Council will still be responsible for the enforcement of that Code of Conduct in relation of members of Town and Parish Councils as well as the District Council. There will be more flexibility on how the Council deals with complaints received. The sanctions available to the Council will be limited and will not include the powers currently held by Standards for England to disqualify. The criminal offence in the Bill of failure to disclose pecuniary interests is retained. Prosecution for this offence can only be instituted by the Director of Public Prosecutions and the sanctions include a power to disqualify a member for up to 5 years from being elected or co-opted on to a Council. The role of the Independent Member is changed and he/she is no longer a voting Member of the Standards Committee. There is no longer a need to have a Standards Committee designated at such but the duties under Sections 26 to 37 of the Localism Act 2011 must be carried out by a politically balanced Committee of the Council.

3. Recommendations

The Council is recommended to set up a Standards Committee from May 2012 composed of 6 District Members and 4 Parish/Town Council Members. In addition the Council is recommended to have 2 independent persons to carry out the consultation requirements of clause 28 (7) of the Localism Act 2011.

4. The Proposals

- 4.1 Members will recall that the Localism Bill as published in December 2010 did not include any requirement to have a Code of Conduct and did not include any requirement on a District Council to monitor the conduct in town and parish councils. The Bill was radically amended in the House of Lords in October 2011 and these amendments were accepted by the Commons this month and the Bill has now received the royal assent and been published in that amended form.
- 4.2 Standards for England is still to be abolished and therefore all Code of Conduct issues will have to be dealt with locally. The Council is however required to have a Code of Conduct and a Committee dealing with complaints received both at District and Town/Parish level. How the Council deals with those complaints is a matter for the Council. For the last 3 years we have been conducting a system whereby the details of any complaint are not disclosed to the member who is the subject of the

complaint until a decision is made to investigate that complaint. We could proceed on that basis. Alternatively we could proceed on a different basis. I understand that Arun District Council intend to proceed on the basis that the initial assessment hearing is turned into a mediation hearing with both the complainant and the member who is the subject of the complaint in attendance. Members are asked to debate any changes they would like to see so that detailed proposals can be brought back to your next meeting scheduled for the 11th January 2012. In the meantime it is possible the Secretary of State will issue guidance in these areas although the idea is that Councils will be left to deal with the matter as they think fit.

- 4.3 The Act retains the power of prosecution for failure to properly register interests. The prosecution however can only be pursued by the Director of Public Prosecutions and therefore such prosecutions are likely to be rare and only in the most exceptional cases of financial gain.
- 4.4 The Standards Committee will need to be politically balanced as far as District Council is concerned and to achieve this it is suggested there should be 6 District Council members of the Standards Committee. When District Council members are the subject of a complaint, it is sometimes difficult to get sufficient members together to look at the complaint when some members are not available and other members cannot be used. Therefore the increase in number to 6 would be helpful.
- 4.5 An input from parish/town councillors is important when dealing with town/parish council matters. It is therefore suggested that we retain co-opted members from town and parish councils on the Committee. Once again there have been issues where members of the Committee have been the subject of the complaint and therefore only having 3 such members can cause problems. It is therefore suggested that this number increased to 4.
- 4.6 The Act does not envisage voting membership of the Committee by independent members. However the Council is required to appoint at least one independent member to act as a consultant for both a member in receipt of a complaint and for the monitoring officer. Given that persons are not always available it is suggested that the Council appoints 2 such members who will need to liaise between themselves to ensure their views are consistent.

5. Financial Implications

- 5.1 The retention of a Standards Committee is proposed. There is likely to be a small reduction in the allowances for this Committee given the reduction in Independent people involved.

6. Risk Management Implications

- 6.1 Dealing with complaints about members is a time consuming and costly business. Comprehensive training is a preventative measure. Cooperation from members in ensuring that what they say in public is appropriate and balanced is needed if complaints are to be kept to a minimum.

7. Equality and Customer Service Implications

- 7.1 The Standards Committee must operate in the full knowledge of the Equalities Act 2010 and other related legislation. Equalities feature in the Code of Conduct and are likely to feature in any amended Code of Conduct the Council may wish to adopt.

8. Other Material Implications

- 8.1 While the changes proposed by the Act are not major there will be training issues both at District and Town/Parish level and also a need to update the information the Council gives about such Code of Conduct complaints on the website and in other publications.

Background Papers

Localism Act 2011.