

MEETING:	COUNCIL
DATE:	20 JULY 2012
TITLE OF REPORT:	IMPLEMENTATION OF LOCALISM ACT 2011 CHAPTER 7 – STANDARDS
REPORT BY:	MONITORING OFFICER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To advise Council of the steps required to implement the provisions of Chapter 7 of the Localism Act 2011 regarding standards of conduct for members and co-opted members of the Authority.

Recommendation

THAT

- (a) the Code of Conduct at Appendix A be adopted;**
- (b) the Complaints Process at Appendix B be adopted;**
- (c) the granting of dispensations be delegated to the Audit and Governance Committee and the Monitoring Officer be requested to make recommendations about further delegations;**
- (d) the powers of Audit and Governance Committee be enlarged to enable it to determine complaints about member conduct and the Monitoring Officer be empowered to make any necessary consequential amendments to the Constitution;**
- (e) the Audit and Governance Committee be requested to bring forward amendments to Standing Orders as a matter of urgency;**
- (f) all members be encouraged to attend training;**
- (g) the members of the Standards Committee be thanked for their hard work and especially their assistance in developing these proposals**

Key Points Summary

- The Localism Act 2011 removed the standards regime which had been in place since 2001
- The National Code of Local Government Conduct, Standards for England and statutory

Standards Committees have been abolished and powers of disqualification and censure have been removed.

- The Council must now adopt a local code of conduct and a process for handling complaints and these were considered by the Standards Committee prior to its abolition on 30th June 2012.

Alternative Options

1. The requirement to adopt a code of conduct and a process for handling complaints is statutory. However, there is wide local discretion about the form these should take. The Department for Communities and Local Government (DCLG) and the Local Government Association (LGA) have both produced alternative specimen codes which have attracted little support nationally because they are considered to contain insufficient detail.

Reasons for Recommendations

2. The recommendations are supported by the outgoing Standards Committee and by the Herefordshire Association of Local Councils (HALC) (since this Council will still investigate complaints about members of town and parish councils).
3. The code of conduct follows a model produced by the Association of County Secretaries and Solicitors, which is being generally supported elsewhere.
4. The complaints process retains the involvement of parish members, which enhances its credibility with the local councils.

Introduction and Background

5. The Localism Act 2011 abolished the standards regime administered by Standards for England and involving local Standards Committees and a National Code of Conduct, supported by a statutory scheme of sanctions which included powers to suspend or disqualify. It had originally been intended that the new regime would commence on 1 April 2012 and the Standards Committee agreed with Group Leaders the general approach advocated by this report as long ago as December 2011. Implementation was then delayed nationally to 1 July 2012 and the necessary secondary legislation was not issued until 8 June 2012.
6. The legislation requires all councils and the town and parish councils to adopt local codes of conduct by 1 July 2012. Pecuniary interests have to be registered with the Monitoring Officer by 1 July 2012. The Monitoring Officer has to set up a register and have this available on the Council's website. All members and local council members and clerks require training as to their responsibilities (ideally before making an informed decision on the new local code). Standing Orders have to be changed. Schemes for granting dispensations have to be produced. New registers for gifts and hospitality need to be created. These all have to be done in an impossibly short timescale, which the Council is attempting to do, whilst recognising the need to explain the changes and support members and parish councils.
7. The Monitoring Officer, in consultation with HALC and the outgoing Standards Committee, has ensured that registration of pecuniary interests can take place in time. All members of this Council and all parish clerks have had the necessary forms and the clerks have been provided with the regulations and helpline support from both Governance Services and HALC.
8. A programme of training sessions has been created and these are being run by the Monitoring Officer and Deputy Monitoring Officer, in association with HALC (all parish and town councils will be invited to participate in this).

9. A code of conduct has been produced for this Council to adopt and, working with HALC, it is hoped that as many towns and parish councils as possible will adopt the same code.
10. A process for dealing with complaints has been devised and agreed with HALC so that it can be adopted by this Council. Care has been taken to secure involvement of town and parish councils in the process.
11. Further work needs to be done to amend Standing Orders to reflect changing obligations to declare interests and leave meetings. A scheme for granting dispensations is also required.
12. The report today ensures that the Council has carried out its legal obligations as soon as possible after 1 July 2012. The code and the complaints process will require further revision as they evolve.

Key Considerations

13. Council is asked to adopt the new local code of conduct at Appendix A. The content has been provisionally agreed with HALC who will encourage local councils to adopt it as well.
14. Council is asked to adopt the new complaints process at Appendix B. This has also been provisionally agreed with HALC and will be used to handle complaints about town and parish councils as well as this Council's own members. Significant features are the assessments and filtering by the Monitoring Officer, the requirements to tell the subject member about the complaint when it is made and the involvement of a panel supporting the Independent Person to make recommendations.
15. A scheme for granting dispensations will be required and some dispensations may be appropriate to be granted by the Monitoring Officer. However, at this stage it is suggested that the function be devolved to the Audit and Governance Committee. The Monitoring Officer will bring forward suggestions to them for further delegations.
16. As stated above, Standing Orders will need to be amended and the Audit and Governance Committee should be asked to bring forward suggestions to Council in the usual way.
17. The transitional regulations provide that any cases going through local determinations by Standards Committees as at 30 June 2012 fall to be handled under the new arrangements. It will be necessary to determine the appropriate stage in the new process for such cases (depending on whether they were at Assessment, Consideration or Determination stage at that time) to ensure that complainants and subject members do not have to start again.

Community Impact

18. The maintenance of transparency and ethics in decision making is a key element of good governance and is essential to the standing of local authorities at county and local level. Confidence in the system is required to encourage democratic engagement.

Equality and Human Rights

19. The proposals do not raise immediate issues under the Equality Act 2010.

Financial Implications

20. As at present, provision needs to be made for external assistance with investigations and hearings. The budgetary provision can remain unaltered but may be reviewed as the workload pattern becomes apparent. There will initially be increased pressure on the

Monitoring Officer, who now takes over the filtering and assessment role from Standards Committee. The displaced work needs to be handled elsewhere at a cost still to be discovered.

Legal Implications

21. The proposals in the report are those required to fulfil the legal requirements of the Localism Act 2011.

Risk Management

22. If the new standards structures are not embedded, not only will members face the risk of prosecution but the public perception of local government suffers if there is no effective means of enforcing good governance practices.

Consultees

23. In the limited time available there has been no opportunity for wide consultation. Herefordshire Association of Local Councils, Group Leaders and outgoing members of the Standards Committee have been consulted and have contributed to the proposals. The intention is to develop our local approach to the new arrangements over time, whilst ensuring compliance with the key requirements.

Appendices

Appendix A - Code of conduct

Appendix B – Complaints Process

Background Papers

None