

**Subject:** Standards Update  
**Date of Meeting:** 17 April 2012  
**Report of:** Monitoring Officer  
**Contact Officer:** Name: Liz Woodley Tel: 29-1509  
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**Key Decision:** No  
**Wards Affected:** All

**FOR GENERAL RELEASE.****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The main standards provisions of the Localism Act 2011 are expected to come into force on 1 July 2012. This report outlines the steps that are being taken to prepare for their implementation. It also deals with the future of the Standards Committee after the return by the council to the Committee system.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee notes the report.

**3. RELEVANT BACKGROUND INFORMATION:**

- 3.1 The Department of Communities and Local Government (DCLG) has advised the Association of Council Secretaries and Solicitors (ACSeS) that the majority of the new standards provisions under the Localism Act will come into force on 1 July 2012. The Standards Board was abolished on 31 March 2012. After that date, all standards matters including the consideration and determination of complaints made during the period the Standards Board was operating become the responsibility of local authorities.

**Code of Conduct**

- 3.2 A new Code must be adopted to come into force on 1 July. Last year the Localism Bill Working Party expressed the view that the existing Code would be a useful basis from which to develop a new code. The trend in Sussex appears to be in favour of adopting a code which is not very different from the existing one. A draft code had been worked up in the east Sussex area by the County and District Councils including Brighton & Hove. The main difficulty in drafting a new Code is that DCLG has not yet issued regulations under the Act defining "disclosable pecuniary interests". Members will be required to disclose such interests. ACSeS had started

drafting a model code, but recently handed over their work to the LGA. There is no date for a draft to be issued, although the LGA has indicated that it was hoped that their version would be ready by the end of March.

### **Code of Conduct complaints**

- 3.3.1 The Council has to put in place arrangements to investigate and make decisions on written allegations that a member has or may have breached the code of conduct. The council already has very detailed procedures dealing with the assessment, investigation and determination of complaints. Officers are working to simplify and shorten them. ACSeS circulated a draft complaints procedure which was favourably received by the Localism Act Working party, and forms the basis of the new assessment procedure. The main change in the assessment process is that instead of a formal meeting convened to consider complaints, the Monitoring Officer, after consultation with Members and an independent person will decide whether a complaint should be investigated.
- 3.3.2 Under the new Act, there are no powers to suspend or disqualify a member or withdraw allowances. In fact, the Act is silent on the sanctions available. Counsel's advice is that the following options would be available:-
- Formal letter to the councillor found to have breached the code
  - Formal censure by motion
  - Removal by the authority of the member form committee(s) subject to statutory and constitutional requirements
  - Press release/other publicity

### **Independent Persons**

- 3.4.1 The Localism Act requires the council to appoint at least one independent person to carry out various advisory functions under the new regime, but this person will not become a co-opted member of the Audit and Standards Committee. It does not appear as though the council's existing independent members can be an independent person for the purposes of the Localism Act. It is not been possible to make any progress on the selection and appointment of the new independent person(s) as the necessary Regulations have not yet been made.
- 3.4.2 It is likely that most authorities will need more than one independent person's services, as there will be times when a single independent person is unavailable or has a conflict of interest. The council expects to appoint two independent persons.

### **Return to the Committee system**

- 3.5.1 It is proposed that the council returns to the committee system immediately after the conclusion of annual council on 17 May 2012. That will signal the end of both the Audit and standards Committees, and in their place will be an Audit and Standards Committee. There will also be a sub-committee. The draft terms of reference for both are attached as Appendix 1. The

standards functions do not differ significantly from the current Standards Committee's functions.

3.5.2 Until the relevant standards provisions come into force, it will be necessary to continue to operate under the existing system. That means that voting independent members and Parish Council representatives will continue to be members of the committee until the new standards regime commences. It has therefore been proposed that :\_

- a) the merger of the Audit and Standards Committees takes place on the date that the constitution comes into force;
- b) the committee, as an interim measure, adopts a two part agenda starting with standards followed by audit;
- c) the independent member chairs the committee when sitting as a Standards Committee and a Councillor chairs the meeting when the committee acts as an Audit Committee;
- d) the existing independent members (3) and Parish Council representatives (2) continue as members of the committee with voting rights on standards matters;
- e) the above arrangements cease to operate once the provisions of the Localism Act relating to standards come into force;
- f) Once the new regime is in force, the Audit and Standards Committee is authorised to adopt such arrangements (including chairing) as are consistent with the requirements of the law and having regard to the advice of the Monitoring Officer and the Director of Finance.

## **5 COMMUNITY ENGAGEMENT AND CONSULTATION**

5.1 The Chairman and Monitoring Officer have been consulted on the report.

## **6 FINANCIAL & OTHER IMPLICATIONS**

6.1 There are not expected to be any additional costs arising from the proposed arrangements other than the costs of advertising for new independent members which can be met within the allocated budget.

Finance Officer consulted *Anne Silley*

*Date 27/03/12*

6.2 Legal Implications:

These are addressed in the body of the report.

Lawyer Consulted: Liz Woodley

Date: 26 /03/12

6.3 Equalities Implications:

There are none.

6.4 Sustainability Implications:

There are none.

6.5 Crime & Disorder Implications:

There are none.

6.6 Risk & Opportunity Management Implications:

There are none.

6.7 Corporate / Citywide Implications:

There are none.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Standards Committee's Terms of Reference

### **Documents in Members' Rooms**

None

### **Background Documents**

None