



AGENDA ITEM: 6

**STANDARDS COMMITTEE:
15th December 2011**

Report of: Managing Director (People and Places) and Borough Solicitor

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SUBJECT: LOCALISM ACT 2011- IMPLICATIONS FOR STANDARDS COMMITTEES

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To advise Members of the provisions in the Localism Act 2011 relevant to the Committee.

2.0 RECOMMENDATION

2.1. That the contents of this report be noted and the Managing Director (People and Places) and the Borough Solicitor be asked to bring a further report and Action Plan to the Committee as further details emerge.

3.0 BACKGROUND

3.1 The Localism Act ('the Act') is the major piece of legislation through which the Government will deliver its vision of the 'Big Society'. The aim of the Act is to devolve greater powers to councils and local communities. It aims to give local authorities new freedoms and flexibilities to respond to what local people want in their area.

3.2. The Bill was introduced to Parliament on 13th December 2010 and was given Royal Assent on 15th November 2011. The Bill is now an Act of Parliament. Different parts of the Act will come into force at different times, some are already in force (see Appendix A). Although there is no guarantee about timing, as of 15th November 2011 the Government is aiming for many major measures to come into effect in April 2012. The Government will be issuing regular updates on likely start dates and public consultations on different parts of the Act. The latest information will be available at www.communities.gov.uk.

- 3.3. The Act makes provision about many functions and procedures of local authorities including local government finance, town and country planning, community infrastructure levy and social housing. This report outlines the main provisions of the Act of particular concern to Standards Committees.

4.0 NEW STANDARDS REGIME

- 4.1. Currently all local authorities must by law adopt the model code of conduct and establish a standards committee to oversee the behaviour of Councillors and receive complaints. As Members are aware a central regulatory body, Standards for England, coordinates the regime. The Act will abolish the existing Standards Regime from a date to be appointed. The date will be confirmed in commencement orders issued by the Secretary of State it is anticipated it could be 1st April 2012, but it may now be from the date of the Annual Meeting in May.
- 4.2. The Act will introduce a revised regime with a requirement that local authorities must adopt a code of conduct and will have to investigate allegations of any member failing to comply with it. There will be no model code. Authorities will be able to either draw up their own code of conduct or revise their existing code provided that the code, when viewed as a whole, is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 4.3. Authorities will have to put in place arrangements under which any allegations of breach of the code can be investigated, and will be required to appoint an 'independent person' whose views must be sought and taken into account before making any decision. The Act does not provide any sanctions for breaches of the code and therefore authorities will be limited as to what action they can take. There is no requirement to put in place an appeals mechanism.
- 4.4. The Act introduces a new criminal offence for councillors to deliberately withhold or misrepresent a 'disclosable pecuniary interest' such interests will be defined by regulations and must be disclosed within 28 days of a member taking office. A Member found guilty of an offence is liable on summary conviction to a fine and may also be disqualified from being a member by the court.
- 4.5. The Monitoring Officer will have to keep and publish a list of disclosable pecuniary interests. If a Member has such an interest in a particular matter, they must not participate in any discussion or vote on that matter.
- 4.6. Currently, a member with a prejudicial interest may apply to the Standards Committee for a dispensation on two grounds. The Act will widen the circumstances whereby a council may grant a dispensation allowing a member to participate in a discussion or vote on a particular matter. The power to grant a dispensation may be delegated to the Standards Committee, a sub committee or to the Monitoring Officer.
- 4.7. In relation to pre determination, the Act makes it clear that it is proper for councillors to play an active part in local discussions. Councillors will be able to have a preliminary view on matters and be free to discuss and publicise their views and voting intentions without the fear of legal challenge as a result. However, this is on the basis that they must be prepared to listen to all of the arguments and

evidence before making their decisions. This section will come into force on 15th January 2012.

5.0 IMPLEMENTATION

5.1. We will bring a detailed report on implementation of the provisions in the Act to the next meeting of the Committee for approval and submission to Council, on 29 February if the provisions are brought into force on 1 April, or Council on 11 April 2012, if the provisions come into effect from the date of the Annual Meeting. Training will have to be programmed and undertaken once the position is clarified.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

6.1. There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There will be significant resource implications in bringing the new arrangements into effect which must be met from existing in-house provision.

8.0 RISK ASSESSMENT

8.1 This item is for information only and therefore does not require a formal risk assessment, no changes have been made to the risk registers as a result of this report at this stage.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and/or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

None