



Committee: STANDARDS COMMITTEE

Date: THURSDAY, 3 MAY 2012

Venue: LANCASTER TOWN HALL

Time: 10.00 A.M.

A G E N D A

1. Apologies for Absence

2. Minutes

Minutes of meeting held on 19th January 2012 (previously circulated).

3. Items of Urgent Business authorised by the Chairman

4. Declarations of Interest

5. Localism Act 2011 - Member Code of Conduct (Pages 1 - 28)

Report of the Monitoring Officer

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors

Councillors Chris Coates, Sheila Denwood, John Harrison, Billy Hill, Roger Mace, Roger Sherlock and Joyce Taylor

Voting Co-optees

Stephen Lamley (Chairman), Tony James (Vice Chairman), Margaret Davy, David Jordison, Sue McIntyre and Frank Senior

(ii) Substitute Membership

Councillors

Councillors Shirley Burns (Substitute), Roger Dennison (Substitute), Paul Gardner (Substitute), Kathleen Graham (Substitute), Andrew Kay (Substitute) and Peter Williamson (Substitute)

(iii) Queries regarding this Agenda

Please contact Peter Baines, Democratic Services - telephone 01524 582074, or email: pbaines@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Tuesday 24th April 2012.

STANDARDS COMMITTEE**LOCALISM ACT 2011 - MEMBER CODE OF CONDUCT****3rd May 2012****Report of the Monitoring Officer****PURPOSE OF REPORT**

To seek the Committee's views on two new model codes of conduct circulated recently by the LGA and the DCLG, to enable the Committee to make recommendations to Council on the form of the new Code of Conduct it should adopt.

This report is public**RECOMMENDATIONS****(1) The Committee's views are sought****1.0 Introduction**

- 1.1 Members will recall that at its meeting on the 19th January 2012, the Committee considered a report on the standards provisions contained in the Localism Act 2011. A copy of that report is at Appendix 1 for ease of reference.
- 1.2 The Committee noted that, at this early stage, best practice was still being discussed by relevant national and professional bodies, and Regulations were still awaited, particularly with regard to the registration of interests, but resolved that the Committee's preliminary views for consideration by Council with regard to the Code of Conduct were that paragraphs 3-7 of the current Code of Conduct should be retained within the future version, with paragraph 5 revisited in order to review the definitions of 'bringing the council into disrepute'. This recommendation was accepted by Council on the 1st February 2012.
- 1.3 Draft regulations on interests had still not been published at the time of writing this report. Information will be provided at the meeting if they have been published by then.
- 1.4 However, on the 10th April 2012, the LGA published a template code of conduct, agreed with other stakeholders including Solace and ACSeS (Association of Council Secretaries and Solicitors). This document is at Appendix 2. The following day, the Department for Communities and Local Government published an "illustrative text" of what a code of conduct might look like under the new standards regime. This document, with covering letter, is at Appendix 3. The purpose of this report, therefore, is to give members the opportunity to consider these documents

2.0 Proposal Details

- 2.1 The LGA and DCLG Codes are similar in their broad-brush approach, although there are some differences between them. Neither code contains any specific provision on confidentiality or reference to bullying. The DCLG Code does not make any provision for treating others with respect.
- 2.2 Both Codes seem to comprise the broad seven aspirational principles, with only a few selective examples of what each principle means in practice. They provide limited guidance on what constitutes a failure to comply with the Code. However, this is perhaps consistent with the government's intentions in revising the standards regime, in that it was of the view that the old framework encouraged petty and vexatious complaints.
- 2.3 The Committee's views on these model documents are sought, and members are asked to consider whether they would wish to recommend either of these Codes to Council, or whether they would still prefer to maintain a more detailed Code of Conduct, similar to the present one. For Members' information, a draft Code prepared by another Council prior to the publication of the LGA and DCLG documents, which the Monitoring Officer has obtained through ACSeS, is included at Appendix 4. This document seems to incorporate most of the provisions of the current Code, under the headings of the Nolan principles, and is therefore an example of how the current Code could be adapted. The current Code is appended at Appendix 5 for ease of reference.
- 2.4 Clearly, from the point of view of dual and triple hatted members, there is an advantage in a county council, district council and the parish councils within the district all having the same Code of Conduct. From the point of view of the public it would also seem sensible for the same standards of conduct to apply to elected members regardless of district boundaries. The Monitoring Officer is due to meet with the Cumbrian Monitoring Officers on the 27th April, and is also discussing with Monitoring Officers within Lancashire the likely preferred Code of their Councils. Any further information will be reported at the meeting. The Monitoring Officer had a preliminary discussion with LALC (Lancashire Association of Local Councils) following the January meeting, and LALC were supportive of the view that there was merit in all Councils within Lancashire adopting the same Code.

3.0 Details of Consultation

- 3.1 The views of the Committee are sought, as the body responsible for advising Council on its Code of Conduct

4.0 Options

- 4.1 At this stage, it is not possible to finalise a new Code of Conduct, as the Regulations on interests have not yet been published. The Committee's views are, however, sought on the LGA and DCLG documents, with a view to informing discussions with neighbouring authorities, and making recommendations to Council on the form and content of its Code of Conduct.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

LEGAL IMPLICATIONS

The Council is required under the Localism Act 2011 to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. The code must be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership, and must include provisions in respect of pecuniary and other interests.

FINANCIAL IMPLICATIONS

There are no direct financial implications at this stage.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Deputy Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Committee

BACKGROUND PAPERS

None

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Ref:

APPENDIX 1

STANDARDS COMMITTEE

**Localism Act 2011 – Implementation of the Amended
Standards Regime
19th January 2012**

Report of the Monitoring Officer

PURPOSE OF REPORT

To advise the Committee of the changes to the standards regime introduced by the Localism Act 2011 and to enable the Committee to make recommendations to Council on the implementation of the new regime.

This report is public

RECOMMENDATIONS

- (1) **That the Committee consider making recommendations to Council on the implementation of the new standards regime as set out in the report**

1.0 Introduction

- 1.1 Whilst retaining a requirement for the Council to promote and maintain high standards of conduct for its elected and co-opted members, the Localism Act 2011 (the Act) makes fundamental changes to the system of regulation of standards of conduct for members. It was initially thought that the date for implementation of the changes would be the 1st April 2012. However, the government has indicated that, whilst it is intended that Standards for England will cease its regulatory functions on 31 January 2012, and be abolished no later than 31 March 2012, the rest of the changes will be implemented from the 1st July 2012. This will still depend on when certain Orders and Regulations are made by the Secretary of State.
- 1.2 The Act repeals the statutory regime established under the Local Government Act 2000 (the 2000 Act). The national regulatory body Standards for England is abolished, and the statutory provisions relating to the appointment of independent and parish members to standards committees are repealed. However, there will be a requirement to appoint an “independent person” to advise the Council. The national model code of conduct is also repealed, although councils are still required to have a code of conduct. Regulations are to be made by the Secretary of State in respect of “disclosable pecuniary interests”.
- 1.3 The changes are set out in more detail below, together with suggestions as to the mechanisms and procedures that the Council will need to have in place in

order to comply with the requirements of the Act.

- 1.4 The Terms of Reference of this Committee currently include the promotion and maintenance of high standards of conduct, and advising the Council on the adoption or revision of its Code of Conduct, and it is therefore appropriate that this Committee should make recommendations to Council as to the future regime.

2.0 Proposal Details

Standards Committee

- 2.1 The current Standards Committee is a statutory committee. Under the Act there will be no requirement for the Council to have a standards committee. However, there will still be a need to deal with standards issues and case-work, so it may be desirable for the Council to continue to have a Standards Committee, as indeed it had prior to the 2000 Act.
- 2.2 As it will be a normal committee of Council, rather than a statutory committee, membership of the Standards Committee will be governed by proportionality, and the present restriction to only one member of Cabinet will cease to apply. Council will need to consider the size of the Committee. Whilst a smaller Committee may make decision making easier, a larger Committee would make it easier to establish Sub-Committees to deal with matters such as hearings and dispensations.
- 2.3 The current independent members will cease to hold office. The Act establishes a new category of Independent Person, referred to later in this report, who must/may be consulted at various stages. However, the Act provides that the existing co-opted independent members cannot serve as Independent Persons for five years. The new Independent Person(s) may be invited to attend meetings of the Standards Committee, but will not be a co-opted member.
- 2.4 The Council will continue to have responsibility for dealing with standards complaints against parish councillors, but the current parish representatives on the Standards Committee will cease to hold office. It would be possible for the Council to co-opt parish members onto the Standards Committee, but such members would have an advisory role only, and would not have voting rights. It might therefore be difficult to appoint co-optees if they felt that they could not play a part in any decision making. Another option that Council might wish to consider would be to establish the Standards Committee as a Joint Committee with as many parish councils as wished to participate, so that parish representatives could be voting members and the Committee could make operative decisions in respect of parish council members. This, however, is perhaps an option for the future, as it would take some time to establish.

The Committee may wish to make recommendations to Council as to the appropriate size for the Standards Committee and whether parish councils should be invited to nominate co-opted non-voting members, and, if so, how many.

The Code of Conduct

- 2.5 The current ten general Principles and the Model Code of Conduct will be repealed, and members will no longer be required to give an undertaking to comply with the Code of Conduct. However, the Council must adopt a new Code of Conduct governing elected and co-opted members' conduct when

acting in that capacity. The Council's new Code of Conduct must be consistent with the following seven principles:

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

This means that the principles of personal judgement, respect for others, duty to uphold the law, and stewardship are no longer required to be taken into account.

2.6 As a starting point, and to ensure that there is a Code of Conduct in place when the Act takes effect, it might be appropriate for Council to consider re-adopting some or all of paragraphs 3 to 7 of the existing Code of Conduct. The Code could be further amended in due course if that were felt appropriate. Indeed, it may be that bodies such as the Local Government Association or the Association of Council Secretaries and Solicitors will be preparing model codes of conduct that comply with the Act. There may also need to be discussions with the County Council and the parish councils, as it would seem sensible, particularly for the sake of dual and triple hatted members, and for the public generally, for there to be some consistency between the codes of different councils within the same area.

2.7 The Code must also include such provisions as the Council considers appropriate in respect of the registration and disclosure of pecuniary interests, and interests other than pecuniary interests. In addition, Regulations are to be made in respect of "disclosable pecuniary interests," and the Act requires members with a disclosable pecuniary interest not to take part in any relevant item of business. However, there is no longer a requirement to withdraw from the meeting, although that could be included in the Council Procedure Rules. Until the Regulations are drafted, it is not possible to draft Code provisions relating to interests, but this Committee might wish to take a view as to what it might recommend Council would be appropriate to include in the Code in respect of the totality of all interests. It may be that the Committee is of the view that all personal interests which are currently required to be registered should continue to be so, or that some amendment is needed.

The Committee may wish to make recommendations to Council that the Council's Code of Conduct should comprise some or all of paragraphs 3-7 of the existing Code, and (subject to the contents of the Regulations) should require registration and disclosure of interests which would currently constitute personal and/or prejudicial interests.

Dealing with Misconduct Complaints

2.8 The Act requires the Council to adopt "arrangements" for dealing with complaints of breach of the Code of Conduct both by City and parish councillors. 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 Code.

- 2.9 In the absence of the statutory regime of the 2000 Act, it will be necessary for Council to delegate appropriate powers to the Standards Committee and/or the Monitoring Officer to deal with complaints.
- 2.10 The Committee may wish to recommend Council to delegate to the Monitoring Officer the initial decision on whether a complaint should be investigated, subject to consultation with the Independent Person, and with the Chief Executive if the Monitoring Officer considers this appropriate, and with the flexibility to refer particular complaints to the Standards Committee if the Monitoring Officer feels that it would be inappropriate for her to take the decision. These arrangements should also offer the opportunity for the Monitoring Officer, in consultation with the Chief Executive as appropriate, to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation – an opportunity that has not been available under the statutory scheme of the 2000 Act. The Monitoring Officer would then report to each scheduled Standards Committee meeting on the number and nature of complaints received and decisions taken on them.
- 2.11 Where a complaint is referred for investigation, and the investigating officer finds no evidence of failure to comply with the Code, the Monitoring Officer could be given delegated authority, in consultation with the Independent Person, to close the matter, but with a power to refer the matter to the Standards Committee if the Monitoring Officer considers this appropriate. The Monitoring Officer would in any event provide a summary to the next meeting of the Standards Committee.
- 2.12 Where a formal investigation finds evidence of failure to comply with the Code, there may yet be an opportunity for local resolution, avoiding the need for a hearing. Sometimes the investigation report can cause a member to recognise that the conduct was at least capable of giving offence, and the complainant may be satisfied by recognition of fault or an apology. The Committee may wish to recommend that the Monitoring Officer be given delegated authority to agree a local resolution, in consultation with the Independent Person, and with the Chief Executive as appropriate, subject to the complainant being satisfied with the outcome, and subject to a summary report to the Standards Committee.
- 2.13 In all other cases where the formal investigation finds evidence of a failure to comply with the Code, it would be necessary for the Standards Committee (or a Sub-Committee, depending on the size of the full Committee) to hold a hearing at which the member complained of may respond to the investigation report and the Committee (or Sub-Committee) can determine whether the member did fail to comply with the Code and what action, if any is appropriate.
- 2.14 The Act does not give the Council any powers to impose sanctions, such as suspension or the requirement for training or an apology. The actions open to the Council (which could be delegated to the Standards Committee) are limited to reporting the findings to full Council, (in effect “naming and shaming”), recommending the member’s Group Leader to remove the member from any or all Committees, withdrawing Council facilities, such as a computer, or excluding the member from the Council’s offices with the exception of meeting rooms as necessary for attending meetings of Council/Committee. There is no right of appeal.
- 2.15 With regard to parish councils, the Act gives this Council no power to do any more in respect of a parish councillor than to make a recommendation to the

parish council on action to be taken in respect of the councillor. Parish councils will be under no obligation to accept any such recommendation. The only way round this would be if a joint committee were to be established, and, as indicated earlier in this report, that would be a matter for the longer term.

The Committee may wish to recommend to Council:

That the Monitoring Officer be given delegated authority to receive complaints, to seek informal resolution wherever possible, and, in consultation with the Independent Person and with the Chief Executive if appropriate, to determine whether a complaint merits formal investigation, and to arrange such investigation.

Where an investigation finds “no failure to comply”, the Monitoring Officer be authorised to close the matter, in consultation with the Independent Person, and with the Chief Executive if appropriate, reporting the outcome to the Standards Committee.

Where an investigation finds a failure to comply with the Code, the Monitoring Officer, in consultation with the Independent Person, and with the Chief Executive if appropriate, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases. Where such resolution is not possible, the matter to be referred to the Standards Committee (or a Sub-Committee) for hearing.

The Standards Committee to have delegated authority to take a decision on the action to be taken in respect of a member who, following a hearing has been found to have failed to comply with the Code.

Independent Persons

- 2.16 The “arrangements” adopted by Council must include provision for the appointment by the Council of at least one Independent Person, who must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting).
- 2.17 A person is not considered independent if he is, or has been within the last five years, an elected or co-opted member of the Council, a parish council in the district, or of a Committee or Sub-Committee of the Council or a parish council, or an officer of the Council or a parish council, or is a relative or close friend of a current member or officer of the Council or a parish council.
- 2.18 The Independent Person must be consulted before the Council 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. The Independent Person may be consulted by the Council in respect of a standards complaint at any other stage, and may be consulted by a member or co-opted member of the Council or of a parish council against whom a complaint has been made. This would appear to raise problems in that an Independent Person who has been consulted by a member against whom a complaint has been made, might as a result be regarded as prejudiced on the matter, and not able to be involved in the determination of the complaint.

- 2.19 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. This does not therefore resolve any potential “conflict” problems. If only one Independent Person is to be appointed, it has been suggested that it would be appropriate to appoint one or two reserve candidates, who could fill the role at short notice if the appointed Independent Person were no longer able to discharge the function. Council will need to consider how many Independent Persons should be appointed; it will be necessary for the appointment process to commence as soon as possible to ensure that the role is filled when the new provisions come into force.
- 2.20 The Independent Person may receive allowances or expenses in connection with the duties of the appointment. As the Independent Person is not a member of the Council or a Committee, the remuneration to be paid does not fall within the remit of the Independent Remuneration Panel, and is a matter for the sole discretion of Council. The role is likely to be less onerous than that of the current Chairman of the Standards Committee, but it is difficult at this early stage to assess the number of occasions the Independent Person is likely to be consulted.

The Committee may wish to make recommendations to Council as to the number of Independent Persons (and/or reserves) who should be appointed and any allowance that should be paid, and recommend that the Monitoring Officer be authorised to commence the advertisement process, with a Panel comprising the Chairman of the Committee and two other members of the Committee to short-list and interview candidates and to make a recommendation to Council or appointment.

The Register of Members’ Interests

- 2.21 The Act abolishes the concepts of personal and prejudicial interests. Regulations will define “Disclosable Pecuniary Interests” (DPIs). 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 registers for parish councils, which have to be available for inspection at the City Council’s offices, on the City Council’s website and on a parish council’s website if it has one.
- 2.22 At the time of writing this report, it is not known how DPIs will be defined, but they are likely to be broadly similar to the current prejudicial interests. The Act extends the requirement for registration to cover not just the member’s interests, but also those of the member’s spouse or civil partner, or someone living with the member in a similar capacity.
- 2.23 The provisions in the Act in respect of the Council’s Code of Conduct require it to contain requirements for the registration and disclosure of other pecuniary interests and non-pecuniary interests as the Council considers appropriate. However, these requirements cannot be drafted until the definition of DPIs is known.
- 2.24 DPIs must be registered within 28 days of becoming a member. Failure to register is a criminal offence. There will be no continuing requirement for a member to keep the register up to date, except on re-election, but it is likely that members will register new interests from time to time, as this will avoid the need for disclosure at meetings. In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so

would not be a criminal offence, but merely a failure to comply with the Code of Conduct.

- 2.25 If different parish councils adopt different Codes of Conduct, with different provisions for the registration of interests, as is open to them, the task of preparing the register is likely to be onerous, and there is no provision for the Council to recover the cost from the parish councils.

At this stage, before the Regulations are in place, it will be difficult for the Committee to make recommendations in respect of the registration of interests. Many of the requirements with regard to the holding of the register are in any event statutory, so that there will be little discretion.

Disclosure of Interests and Withdrawal from Meetings

- 2.26 The duty to disclose and not participate arises whenever a member attends a meeting and is aware that he/she has a DPI in any matter being considered at the meeting. The member must disclose the interest to the meeting if it has not been registered. However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or sent a request to the Monitoring Officer to register it (a “pending notification”). This means that the interest may not be clear to members of the public attending the meeting, who may not be aware of the contents of the register.
- 2.27 Where a member does make a disclosure of a DPI at a meeting, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can be entered on the register.
- 2.28 If a member has a DPI in any matter, the member must not participate in any discussion of the matter at the meeting, nor participate in any vote on the matter. This would appear to preclude making representations as a member public as currently permitted by paragraph 12(2) of the Code. It will however be possible for a member to obtain a dispensation (see below).
- 2.29 Failure to comply with the above requirements is a criminal offence. The Council’s Code of Conduct must make “appropriate” provision for disclosure and non-participation for interests other than DPIs, but failure to comply with these requirements would be a breach of the Code of Conduct and not a criminal offence.
- 2.30 The Act does not provide for any requirement to withdraw from the meeting room, but this could be covered by amendments to the Council’s Procedure Rules. Failure to comply would not be an offence or a breach of the Code of Conduct, although the meeting could vote to exclude the member.
- 2.31 Similar provisions apply to preclude individual Cabinet members from taking a decision in a matter in which they have a DPI.

The Committee may wish to recommend that Council amends its Procedure Rules (applicable to all meetings) to include a requirement that a member must withdraw from the meeting room, including the public gallery, during the whole consideration of any item of business in which the member has a DPI, except where the member is permitted to remain as a result of the grant of a dispensation.

Sensitive Interests

- 2.32 The Act re-enacts the existing code of conduct provisions on sensitive interests. Where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which the member would be required to disclose) at a meeting or in the register would lead to the member or a person connected with the member being subject to violence or intimidation, the member may request the Monitoring Officer to agree that the interest is a “sensitive interest”. In those circumstances, the member then merely 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.

Dispensations

- 2.33 A dispensation may be granted for the following reasons:
- That so many members of the decision-making body have DPIs that it would impede the transaction of business
 - That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of the vote
 - That the Council considers that the dispensation is in the interests of persons living in the Council’s area
 - That without a dispensation, no member of Cabinet would be able to participate in a matter before Cabinet
 - That the Council considers that it is otherwise appropriate to grant a dispensation
- 2.34 Parish Councils will be responsible for granting their own dispensations. The Council may delegate the granting of dispensations to the Standards Committee (or a Sub-Committee) or to the Monitoring Officer
- The Committee may wish to recommend that Council delegate to the Standards Sub-Committee (or a sub-committee of the Standards Committee) authority to grant dispensations. The Committee may wish to recommend that the Independent Person is consulted before a dispensation is granted.**

Transitional Arrangements

- 2.35 Regulations will provide for the transfer of Standards for England cases to the relevant Council following the abolition of Standards for England. This Council does not currently have any cases with Standards for England. Regulations will also provide for a transitional period for the determination of outstanding complaints under the current Code of Conduct, but the power of suspension and the right of appeal to the First Tier Tribunal will not apply during the transitional period.

3.0 Details of Consultation

- 3.1 There has been no formal consultation. The report has been based on advice received through the Association of Council Secretaries and Solicitors, and will be updated orally at the meeting should any Regulations be drafted or made, or any further information or guidance received after the publication of the agenda.

4.0 Conclusion

- 4.1 The Committee is asked to note the contents of the legislation, and to make recommendations to Council as to its effective implementation.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report. Any "arrangements" adopted by the Council will ensure that any member against whom a complaint is made has the opportunity to respond to such complaint, and a fair hearing if the matter proceeds to a hearing.

LEGAL IMPLICATIONS

The legal implications are included in the report.

FINANCIAL IMPLICATIONS

It is difficult to assess the financial implications at this early stage. The allowance for the Independent Person(s) will need to be considered, as will the appropriate level of special responsibility allowance for the Chairman of the new Committee. The most time consuming aspect of the implementation of the legislation is likely to be the preparation and maintenance of the registers of interests for the parish councils, but at this stage it is considered that this can be met within existing budgets.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

There will be a requirement for the register of interests for this Council and the parish councils to be available on the Council's website.

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as the adviser to the Standards Committee and the officer on whom the Localism Act places certain obligations.

BACKGROUND PAPERS

None

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Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.



Bob Neill MP
Parliamentary Under Secretary of State

Appendix 3

Department for Communities and Local
Government
Eland House
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London SW1E 5DU

To all Local Authority Leaders

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www.communities.gov.uk

11 April 2012

Dear Colleague,

I am writing to let you know that my Department is today making available an illustrative text for a code of conduct for members and co-opted members of local authorities. This text provides local authorities with an example of what a local authority's code of conduct for the new standards arrangements might look like.

We have made provision in the Localism Act 2011 for the abolition of the Standards Board regime, and the Standards Board itself was abolished on 31 March. The Act also makes provision for new standards arrangements including the involvement of an independent person in allegations of misconduct, a new criminal offence for failing to declare or register interests, and the requirement for local authorities to adopt a code of conduct that is consistent with the seven 'Nolan' principles of standards in public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as well as making provision for the registration and disclosure of pecuniary and non-pecuniary interests.

The model code of conduct was a key part of the Standards Board regime, a top-down, centrally imposed regime that became a vehicle for vexatious complaints. Moving to new arrangements means that local authorities will be free to discard the model code and adopt their own, Nolan compliant, code. In order to give local authorities an idea of what a Nolan compliant model code featuring provisions about pecuniary and not pecuniary interests might look like, I am attaching an example. As you will see, it is very different to the model code that formed part of the Standards Board regime, while clearly requiring that members act in a manner that promotes and maintains high standards of conduct.

Together, these measures will ensure high standards in public life, prevent corruption, and put a stop to petty, vexatious complaints that consume local authority resources and damage the reputation of local government.

We have produced this example of a local code to provide certainty to local authorities who wish to adopt a lighter touch code compared to the centralist, top-down model code, and to help local authorities (especially parish councils) who might otherwise consider they need to commit valuable resource to creating a code to ensure compliance with the Localism Act. I hope you find the example code of conduct helpful.

A handwritten signature in black ink, appearing to read "Bob Neill".

BOB NEILL MP

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Appendix 4

CODE OF CONDUCT

1.0 Introduction

- 1.1 This Code of Conduct (“the Code”) has been adopted by the Council as required by Section 27 of the Localism Act 2011 (“the Act”).
- 1.2 The Council has a statutory duty under the Act to promote and maintain high standards of conduct by members and co-opted members of the Council (“Members”) and the Code sets out the standards that the Council expects Members to observe.
- 1.3 The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.
- 1.4 The Code is consistent with the following principles (the “Nolan” principles of standards in public life):

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

2.0 Who does the Code apply to?

- 2.1 The Code applies to all Members of the Council and to all co-opted members of any committee, sub-committee or joint committee or sub-committee of the Council.

3.0 When does the Code apply?

- 3.1 The Code applies whenever a person is acting in his/her official capacity as a Member of the Council or co-opted member in the conduct of the Council’s business or acting as a representative of the Council.

4.0 What standards of Conduct are Members expected to observe?

Selflessness:

- 4.1 Members must always act in the public interest.
- 4.2 Members must never use their position as a member of the Council improperly to secure for themselves or any other person, an advantage or disadvantage.
- 4.3 Members must not use the Council’s resources improperly for personal or party political purposes.

Integrity

- 4.4 Members must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 4.5 Members must not disclose information given to them in confidence.

Objectivity

- 4.6 When making decisions on behalf of the Council, including awarding contracts or making appointments, Members must do so on merit.
- 4.7 Members must have regard to any relevant advice provided to them by the Council's officers and, in particular, the Head of Paid Service, Chief Finance Officer and Monitoring Officer, where such advice is provided pursuant to their statutory duties.

Accountability

- 4.8 Members must act in accordance with their legal obligations, including the following Acts of Parliament that confer special obligations on elected councillors:

- Local Government Act 1972
- Employment Rights Act 1996
- Data Protection Act 1998
- Freedom of Information Act 2000
- Bribery Act 2010
- Equality Act 2010
- Localism Act 2011

- 4.9 Members must act in accordance with the Council's policies and reasonable requirements, including any protocols and codes of practice that may apply. (eg in respect of Member/Officer relations, ITC, Member Allowances etc).

Openness

- 4.10 Members must give reasons for any decisions taken on behalf of the Council in accordance with any statutory requirements and the Council's Constitution.
- 4.11 Members must not prevent another person from gaining access to information to which that person is entitled by law.

Honesty

- 4.12 Members must declare any disclosable (pecuniary and non-pecuniary) interests or conflicts of interest that may arise in respect of their responsibilities as a Member of the Council.
- 4.13 Members must at all times ensure that any claims for expenses, allowances, and their use of facilities and services provided by the Council are strictly in accordance with the rules laid down on these matters.

Leadership

- 4.14 Members must set an example by their behaviour and shall act in a way that enhances public trust and confidence in the integrity of the Council and its Members.
- 4.15 Members must show respect and courtesy to others.
- 4.16 Members should value the Council's officers and work alongside them to achieve the Council's objectives.
- 4.17 In their dealings with the Council's employees, Members must have regard to the Council's protocol on Member/Officer Relations and on no account should they behave in a manner that might constitute bullying.

5.0 Register of Interests

- 5.1 The Council's Monitoring officer maintains a register of interests of Members and co-opted members of the Council.
- 5.2 The Council has determined what interests Members are required to enter in the register of interests, including those disclosable pecuniary interests prescribed by regulations. These disclosable interests are listed in Schedule 1.
- 5.3 Members must notify the Council's Monitoring Officer of any disclosable pecuniary and non-pecuniary interests that should be recorded in the Council's register of interests.
- 5.3 Within 28 days of becoming a councillor, all Members must submit to the Monitoring Officer a list of their disclosable interests and must notify the Monitoring Officer of any changes as and when they arise.

LANCASTER CITY COUNCIL

CODE OF CONDUCT

Part 1 General provisions

Introduction and interpretation

1. —(1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

Scope

2. —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3. —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Personal interests

8. —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person

to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

10. —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being

considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3 Registration of Members' Interests

Registration of members' interests

13. —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.