

STANDARDS COMMITTEE

**WEDNESDAY 4TH
JANUARY 2012
AT 1400 HOURS IN
COMMITTEE ROOM 1**

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**PLEASE NOTE:
A TRAINING SESSION FOR
STANDARDS COMMITTEE MEMBERS
WILL BE HELD PRIOR TO THE
MEETING AT 1300 HOURS IN
COMMITTEE ROOM 1**

Sherwood Lodge
Bolsover
Derbyshire
S44 6NF

Date: 19th December 2011

Dear Sir or Madam,

You are hereby summoned to attend a Standards Committee meeting of the Bolsover District Council to be held in Committee Room 1, Sherwood Lodge, Bolsover, on Wednesday 4th January 2012 at 1400 hours.

Members are reminded that under Section 51 of the Local Government Act 2000 the Bolsover Code of Conduct was adopted by the Council on 16th May 2007. It is a Councillor's duty to familiarise him or herself with the rules of personal conduct by which Councillors must conduct themselves in public life. In addition, Members should review their personal circumstances on a regular basis with these rules in mind and bearing in mind the matters listed on the Agenda for discussion at this meeting.

Copies of the Bolsover Code of Conduct for Members will be available for inspection by any Member at the meeting.

Register of Members' Interest - Members are reminded that a Member must within 28 days of becoming aware of any changes to their interests under paragraph 14 or 15 of the Code of Conduct provide written notification to the Authority's Monitoring Officer.

Members are reminded of the provisions of Section 106 of the Local Government Finance Act 1992 and the responsibility of Members to make a declaration at this meeting if affected by the Section and not to vote on any matter before this meeting which would have an affect on the Council's budget.

You will find the contents of the agenda itemised on page 68.

Yours faithfully,



Chief Executive Officer

To: Chairman and Members of the Standards Committee

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee of the Bolsover District Council held in Committee Room 1, Sherwood Lodge, Bolsover, on Wednesday 26th October 2011 at 1400 hours.

PRESENT:-

Independent Members: -

J. Yates - Chair

B. Betts, K. Belshaw, A. Gascoyne, J. Hill, J. Jaffray, R. Lilley and D. Wright.

Members: -

District Councillors; H. J. Gilmour and D.S. Watson.

Parish Councillor T. Munro.

Officers:-

S.E.A. Sternberg (Solicitor to the Council & Monitoring Officer), A. Turner (Deputy Monitoring Officer) and A. Bluff (Democratic Services Officer).

530. APOLOGIES

Apologies were received from Councillor M.G. Crane and A.M. Syrett.

531. URGENT ITEMS

There were no urgent items of business to consider.

532. ADDITIONAL ITEM OF BUSINESS

The Chair advised the meeting of an additional item of business to be considered by Members being, 'Draft Code of Conduct', produced by ACSeS. This item had been previously circulated to Members and would be discussed after agenda item 13, 'Authority to take Action under TARP Regulations 2011'.

STANDARDS COMMITTEE

533. DECLARATIONS OF INTEREST

There were no declarations of interest made.

534. MINUTES – 23rd AUGUST 2011

Standards Committee had agreed to delegate authority to the Monitoring Officer, in consultation with the Chair of Standards Committee, to appoint a Parish Council representative to serve on the Standards Committee for a limited period of time. This had been approved at Council on 21st September 2011.

The Deputy Monitoring Officer advised the meeting that, with the help of the Local Strategic Partnership (LSP), the Monitoring Officer in consultation with the Chair of Standards had exercised her delegated authority to appoint a Parish representative to Standards Committee. It was hoped that the Parish Council representative would take up his appointment and be in attendance at the next meeting of Standards Committee.

Moved by Councillor H. J. Gilmour, seconded by Councillor J. Jaffray
RESOLVED that the minutes of a meeting held on 23rd August 2011 be approved as a correct record and the comments noted.

535. RECOMMENDED ITEM FROM UNION/EMPLOYEE CONSULTATION COMMITTEE (UECC) HELD ON 10TH AUGUST 2011; MINUTE NUMBER 300 – AMENDMENTS TO TERMS OF REFERENCE FOR UECC

The Deputy Monitoring Officer presented a recommended item from Union Employee Consultation Committee (UECC) held on 10th August 2011 in relation to amendments to the Terms of Reference for UECC to be included in the Council's Constitution.

The changes were;

- Paragraph 12 under the heading 'Procedure', change from 'ACAS' to 'provincial joint secretaries'.
- Paragraphs 2 and 3 under the heading 'Membership', the composition for both the Employers side and the Employees side was now twelve.

STANDARDS COMMITTEE

Moved by Councillor T. Munro, seconded by Councillor H.J. Gilmour
RESOLVED that the amendments to the Terms of Reference for Union / Employee Consultation be approved.

RECOMMENDED that Council be recommended to approve the amendments to the Terms of Reference for Union / Employee Consultation Committee for inclusion in the Council's Constitution.

(Monitoring Officer / Head of Democratic Services)

536. RECOMMENDED ITEM FROM COUNCIL HELD ON 21ST SEPTEMBER 2011; MINUTE NUMBER 423(3) RECOMMENDED FROM UNION EMPLOYEE CONSULTATION COMMITTEE – 10TH AUGUST, 2011 - DRAFT SHARED SERVICES PROTOCOL 2011

The Deputy Monitoring Officer presented a recommended item from Council held on 21st September 2011 in relation to the Shared Services Protocol 2011 for inclusion in the Council's Constitution.

This was a new document and had been produced due to the discontinuation of the Joint Working Consultation Forum across Chesterfield Borough, North East Derbyshire and Bolsover District Councils. Ad hoc meetings would replace the Forum.

Moved by K. Belshaw, seconded by J. Jaffray
RESOLVED that the Shared Services Protocol 2011 be included in the Council's Constitution.

(Monitoring Officer / Head of Democratic Services)

537. SURVEY OF PUBLIC ATTITUDES TOWARDS CONDUCT IN PUBLIC LIFE

The Deputy Monitoring Officer presented an article from a publication entitled 'Survey of Public Attitudes towards Conduct in Public Life' for Committee Members interest.

A short discussion took place.

Trends showed that there appeared to be a falling away of confidence in public standards.

STANDARDS COMMITTEE

538. RIPA – REVIEW OF AUTHORISING OFFICERS

The Council needs to have in place properly authorised officers to consider RIPA applications in accordance with the legislation. The authorising officers are the Directors.

The Monitoring Officer presented a report in relation to the two new Directors who need to be added to the list of Authorising Officers. The remaining two Directors need adjustment to their titles.

The two new Directors would require training prior to acting as Authorising Officers. This would be done in house as necessary. Members are reminded that the Government intends to require local authorities to seek the approval of a magistrate rather than being able to have an internal approval system as now. This change is not in place yet.

Moved by T. Munro, seconded by J. Jaffray

RESOLVED that (1) the following become Authorising Officers under the Council's RIPA procedure.

Paul Hackett, Joint Director of Health and Wellbeing.
Kevin Hopkinson, Joint Director of Development.
Bryan Mason, Joint Director of Corporate Services.
Stuart Tomlinson, Joint Director of Neighbourhoods.

(2) suitable training be given in due course.

(Monitoring Officer)

539. CHANGES TO THE DELEGATION SCHEME (CONSTITUTION REVIEW)

The Monitoring Officer presented a report in relation to necessary changes to the Chief Executive Officer's and Directors' Delegation Schemes in the Council's Constitution.

Members were taken through the report and explanations given for the reasons for each of the changes. A full text of the changes was attached in an appendix to the report.

Moved by T. Munro, seconded by J. Jaffray

RESOLVED that the changes referred to in the report in relation to the Chief Executive Officer's and Directors' Delegation Schemes be included in the Council's Constitution subject to approval at Council.

(Head of Democratic Services)

STANDARDS COMMITTEE

540. COMPLAINTS TO THE STANDARDS BOARD

The Monitoring Officer presented a report which gave details of complaints against Members to the Standards Board.

The contents of the report were noted.

Moved and seconded

RESOLVED that the report be noted.

541. STANDARDS COMMITTEE WORK PLAN

The Monitoring Officer presented the Standards Committee Work Plan 2011/12 to the meeting.

No queries were raised by Members on the Work Plan.

Moved and seconded

RESOLVED that the details of the Standards Committee Work Plan be noted.

542. AUTHORITY TO APPLY FOR PREMISES LICENCE REVIEW

Currently, the Council's Constitution does not delegate authority to any officer in the Council to apply for a premises licence review.

The Chief Executive Officer has delegated powers under paragraph 2(a) (4) of the Council's Constitution 'To issue/grant such authorisations as may be necessary to enable any employee to undertake with full legal force the full range of their duties subject to such authorisation remaining in force only until the next ordinary meeting of the Committee having authority to issue/ grant such authorisation.'

The Chief Executive Officer has used this delegation to authorise the Head of Planning and Environmental Health to apply for a Premises Licence Review in relation to a recent public nuisance emanating from a public house.

The Deputy Monitoring Officer presented a report to seek Committee's approval to allow the Environmental Health Commercial Manager to have delegated power to apply for a Premises Licence Review and this be included in the Council's Constitution.

STANDARDS COMMITTEE

It is envisaged that in the future there will be a need to apply for further Premises Licence Reviews.

Moved by J. Jaffray, seconded by K. Belshaw

RESOLVED that the action of the Chief Executive Officer in delegating to the Head of Planning and Environmental Health to apply for a Premises Licence Review be endorsed.

RECOMMENDED that (1) Council endorse the action of the Chief Executive Officer that power be delegated to the Head of Planning and Environmental Health to apply for a Premises Licence Review.

(2) Council delegate power to the Environmental Health Commercial Manager to apply for a Premises Licence Review and this be included in the Council's Constitution.

(Monitoring Officer / Head of Democratic Services)

543. AUTHORITY TO TAKE ACTION UNDER TARP REGULATIONS 2011 (TRADE IN ANIMALS AND RELATED PRODUCTS REGULATIONS)

Environmental Health recently received notification from Trading Standards with regard to a serious matter at a food premises which could have been injurious to public health - officers needed to serve the appropriate Notices on the premises the next working day.

The Chief Executive Officer had used his delegation to authorise Helen Rawson, Roberta Borges Stewart, Sharon Gillott and Richard Cooper to take all appropriate action under the Trade in Animals and Related Products Regulations 2011.

Although officers had previously had the delegation in the Constitution to take action in relation to this matter, the legislation had recently changed and they no longer had specific authorisation to act under The Trade in Animals and Related Products Regulations 2011.

The Deputy Monitoring Officer presented a report to seek Committee's approval to endorse the action of the Chief Executive Officer in giving temporary authorisation as above and also that power be delegated to Helen Rawson, Roberta Borges-Stewart, Sharon Gillott and Richard Cooper to take all appropriate action under the Trade in Animals and Related Products Regulations 2011 and this be included in the Delegation Scheme in the Council's Constitution.

STANDARDS COMMITTEE

Further to a question raised by D. Wright, the Deputy Monitoring Officer confirmed that this process would have to be carried out again if any of the named officers left the employment of the Authority.

Moved by J. Jaffray, seconded by K. Belshaw

RESOLVED that the action of the Chief Executive Officer in granting delegated powers to Helen Rawson, Roberta Borges-Stewart, Sharon Gillott and Richard Cooper to take all appropriate action under the Trade In Animals and Related Products Regulations 2011 be endorsed.

RECOMMENDED that Council;

(a) endorse the action of the Chief Executive Officer in giving temporary authorisation and;

(b) that power be delegated to Helen Rawson, Roberta Borges-Stewart, Sharon Gillott and Richard Cooper to take all appropriate action under the Trade in Animals and Related Products Regulations 2011 and this be included in the Delegation Scheme in the Constitution.

(Monitoring Officer / Head of Democratic Services)

544. ADDITIONAL ITEM OF BUSINESS – DRAFT CODE OF CONDUCT PRODUCED BY ACSeS

The Monitoring Officer presented information from ACSeS in relation to the Draft Code of Conduct and the Localism Bill. The Localism Bill is still in the process of going through Parliament and is currently in the House of Lords where significant changes are being made.

The Deputy Monitoring Officer noted that the Draft Code of Conduct was a much reduced version from the current one but still contained the seven principles of conduct in public life.

A short discussion took place.

Members were advised that they could email the Monitoring Officer if they wished to raise any questions regarding the information at a later date.

Moved and seconded

RESOLVED that the information from ACSeS in relation to the Draft Code of Conduct and the Localism Bill be noted.

STANDARDS COMMITTEE

545. TRAINING FOR STANDARDS COMMITTEE MEMBERS

The Deputy Monitoring Officer advised the meeting that both he and the Monitoring Officer were mindful that Members had not received Standards training as extensively as they would have liked. The Localism Bill had hindered training as it was difficult to know what to train Members on whilst the content of the proposed legislation remained uncertain.

The following four training sessions were put forward;

- The Specifics of Local Assessment Committees
- Options – proposals under the Localism Bill
- How Council is organised and the role of Standards.
- Investigations and other action.

Members agreed that they would choose one training topic from the above four subjects and a one hour training session be carried out before the start of each Standards Committee meeting.

The Deputy Monitoring Officer added that when adopted, a further training session would be required on the Draft Code of Conduct and the new ethical standards regime.

J. Jaffray commented that it was important that the public had confidence in the Standards Committee and the work it undertook and that this was also made clear and understandable. The Monitoring Officer replied that although information regarding work that Standards Committee carried out was available on the Council's website, it could be included as an agenda item for discussion at the next meeting.

Moved and seconded

RESOLVED that (1) a one hour training session be carried out before the start of each Standards Committee meeting on one of the four topics as stated above,

(2) 'Standards Committee on the Council's Website' be included as an agenda item for discussion at the next meeting.

(Deputy Monitoring Officer / Head of Democratic Services)

The meeting concluded at 1445 hours.

RECOMMENDED ITEM FROM COUNCIL HELD ON 19TH OCTOBER 2011

**510. APPLICATION TO CONSENT TO PERFORM HYPNOTISM
EXEMPT – PARAGRAPH 1**

The Solicitor to the Council advised Members that an application had been received for the granting of a licence to carry out a performance of hypnotism within the District.

This was the first such application received by the Council, it had also come to light that there were no provisions in the Council's Constitution for the Solicitor to the Council, nor the Licensing Committee, to deal with such applications. A report would be required to be submitted to Standards Committee to amend the delegation scheme in the Constitution. Pending those amendments, the power to grant such a licence lies with Council.

Details of the application and performance were attached to the report.

Moved by Councillor A.F. Tomlinson, seconded by Councillor K. Bowman
RESOLVED that (1) a licence to practice hypnotism be granted to Mr. Nigel Price,

(2) the Solicitor to the Council be authorised to issue a letter to the applicant confirming grant of the licence,

RECOMMENDED that Standards Committee, consider amending the Constitution to include such delegated powers as are necessary to allow the Solicitor to the Council to administer such applications for consent in the future.

(Head of Democratic Services)

Council	Council	Agenda Item No.:	9
Date:	19 th October, 2011	Category	*
Subject:	Application for Licence to Perform Hypnotism	Status	Exempt – Paragraph 1
Report by:	Principal Solicitor		
Other Officers involved:	Licensing & Enforcement Officer		
Director	Solicitor to the Council		
Relevant Portfolio Holder			

RELEVANT CORPORATE AIMS

N/A

TARGETS

N/A

VALUE FOR MONEY

N/A

THE REPORT

The Council's Licensing Section has received a request from Mr. Nigel Price for the grant of a licence to carry out a performance of hypnotism within the District. The details of the applicant and the performance are set out in the attached application form.

This is the first such application the Council has received. Consequently it has come to light that no provision is made in the Constitution for the Solicitor to the Council, nor the Licensing Committee, to deal with such applications. A report recommending such provision be made will be submitted for consideration by Standards Committee in due course and Council is asked to recommend to Standards Committee that such steps be taken. However, pending those amendments to the Constitution, the power to grant such a licence lies in the hands of Council.

The current application cannot be deferred until those changes are effected in the Constitution therefore this application has been brought before Council for consideration.

The attached form has been drawn up by the Licensing section and completed by the applicant. There is nothing in the completed form which gives reason to refuse the licence in accordance with the relevant legislation. Essentially, the only grounds for refusal would be if the applicant had failed to provide such information as required by the Council. The legislation gives no such powers to refuse such an application.

Accordingly, approval is sought from Council to issue the licence in accordance with that legislation.

IMPLICATIONS

Financial : None
Legal : Failure to consider a request for a licence may place the Council at risk of failing its statutory obligations
Human Resources : None

RECOMMENDATIONS that

- (1) the application for a licence to practice hypnotism be granted to Mr. Nigel Price,**
- (2) the Solicitor to the Council be authorised to issue a letter to the applicant confirming grant of the licence,**
- (3) Standards Committee, be recommended to consider amending the Constitution to include such delegated powers as are necessary to allow the Solicitor to the Council to administer such applications for consent in the future.**

ATTACHMENT: **Yes**
FILE REFERENCE:
SOURCE DOCUMENT:

Standards Committee 4th January 2012

**Item from Executive held on 12th December 2011 - Shared Services Scrutiny
– Terms of Reference**

Recommendation:

That Standards Committee approve the Shared Services Scrutiny Terms of Reference be included in the Council's Constitution.

Committee:	Executive	Agenda Item No.:	13.
Date:	12 th December 2011	Status	Open
Subject:	Shared Services Scrutiny		
Category:	2. Decision within the functions of Executive		
Report by:	Councillor Mary Dooley – Chair of the Scrutiny Management Board		
Other Officers Involved	Scrutiny Officer		
Director	Joint Chief Executive Officer		
Relevant Portfolio Holder	Councillor D. McGregor, Portfolio Holder for Corporate Efficiencies		

RELEVANT CORPORATE AIMS

STRATEGIC ORGANISATIONAL DEVELOPMENT – continually improving our organisation by scrutinising the shared arrangements entered into by the Authority.

PRIORITY

Demonstrate value for money through a culture of innovation.

VALUE FOR MONEY

It is suggested that there are a range of potential benefits with the proposed arrangements including:

- Encouragement of partnership working and opportunities to develop member knowledge and expertise;
- Joint ownership and understanding of recommendations emerging from scrutiny meetings;
- Minimising duplication of effort – services are looked at in a co-ordinated way;
- Readily supports future joint working arrangements

THE REPORT

The purpose of the report is to consider the future scrutiny arrangements for the three shared services of Building Control, Procurement and Internal Audit, and any other areas of joint working in place.

BACKGROUND INFORMATION

Arrangements for joint provision of the three shared services mentioned above, between Bolsover District Council, Chesterfield Borough Council and North East Derbyshire District Council were established in 2006/2007.

In April 2008 at the request of the Chief Executives Group the three Councils considered the establishment of a joint scrutiny panel to scrutinise the provision of joint services between the three Councils. It was agreed to establish a joint scrutiny panel on a pilot basis which has operated for three and a half years. The panel is chaired, hosted and supported by each authority in rotation and meets quarterly. It is made up of nine members comprising three elected members from Bolsover District Council, Chesterfield Borough Council and North East Derbyshire District Council.

Work undertaken during the year has included scrutiny of the annual reports and service plans for each of the three main shared services and quarterly monitoring of financial and performance information. It has also monitored the implementation of recommendations arising from the scrutiny review of the Shared Procurement Unit.

Additional activities supported by this approach include updating the other two authorities on scrutiny work being undertaken by Bolsover's Scrutiny Committees.

Identifying opportunities for joint member development might also be an additional function of the joint panel.

ISSUES FOR CONSIDERATION

At its meeting on 15th June 2011 the Scrutiny Management Board appointed Councillors Bennett, Heffer and Wallis as representatives to this body. Councillor Bennett has since been replaced by Councillor Turner. It is now proposed that the body be formally established as it has been in operation as a pilot for three and a half years. The number of shared services continues to grow and the panel has successfully overviewed shared services and supported continuous improvement within the services delivered jointly by the three Councils.

The panel would continue to monitor performance and it is hoped to undertake further spotlight reviews as and when appropriate. The implementation of the recommendations from the spotlight review on Shared Procurement would also continue to be monitored by the panel over the coming year.

The Chief Executives Group approved the proposal at their meeting on 11th October 2011 and at its meeting on 31st October 2011, the Scrutiny Management Board recommended that Executive be informed of the intention to formalise the pilot arrangements for the Shared Services Scrutiny Panel to scrutinise the joint services between the three Councils, Bolsover District Council, Chesterfield Borough Council and North East Derbyshire District Council.

IMPLICATIONS

Financial: None

Legal: The Local Government Act 2000 originally required the Council to provide an Overview and Scrutiny function. The Council has chosen to continue with the Cabinet and Scrutiny Model. If the Council does not develop an effective scrutiny programme it will not effectively respond to the Local Government and Public Involvement in Health Act 2007. Nor will its overview and scrutiny work support or add value to the work of the Council and its partners.

In addition new expectations for self inspection and assessment at local level strengthens the need for and importance of joint oversight and scrutiny in the future.

Human Resources: None

RECOMMENDATION

That the Executive note the intention to formalise the pilot arrangements for the Shared Services Scrutiny Panel to scrutinise the provision of joint services between the three councils, Bolsover District Council, Chesterfield Borough Council and North East Derbyshire District Council.

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

Consideration and noting of a scrutiny report to formalise the joint scrutiny arrangements across the 3 Councils.

ATTACHMENTS: Y – Draft Terms of Reference – Shared Services Scrutiny Panel

FILE REFERENCE:

SOURCE DOCUMENT:

Draft Terms of Reference of the Joint Scrutiny Panel

Bolsover District Council **Chesterfield Borough Council** **North East Derbyshire District Council**

The Joint Scrutiny Panel will be made up of 9 members (3 from each authority). They will be responsible for the scrutiny function of the joint working/shared services. The terms of reference will be agreed by each authority's Scrutiny Committee and the Joint Scrutiny Panel.

Appointment

The Joint Scrutiny Panel of each authority will nominate 3 members to make up the joint committee.

Role

The Joint Scrutiny Panel will be responsible for overview and scrutiny arrangements for the three shared services of Building Control, Procurement and Internal Audit, and other areas of joint working (Crematorium, Home Improvement Agency) or additional shared services developed, covering the following elements:

- Monitoring – regularly receiving progress reports and updates against targets or objectives, and offering challenge and/or recommendations;
- Holding decision-makers to account - challenging decisions and performance;
- Adding value as a consultee – being consulted/engaged on policy proposals, draft strategies and proposed decisions;
- In-depth or spotlight reviews – a project based approach to reviewing an issue and gathering evidence to inform a report and recommendations – could be undertaken if the above activity identifies a need to;
- Monitoring progress for completed reviews and consultations.

The Joint Scrutiny Panel may:-

- Conduct research, community and other consultation in the analysis of policy issues and possible options;
- Consider and encourage community participation in the scrutiny function;

- Question members of the Joint Board and the Consortium/Service Managers about their views on issues and proposals affecting the area;
- Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- Review and scrutinise the performance of the joint services in relation to its policy objectives, performance targets and/or particular service areas;
- Question members of the Joint Board and the Consortium/Service Managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- Make recommendations to the Joint Board arising from the outcome of the scrutiny process

The Joint Scrutiny Panel may create a working group as required.

The Joint Scrutiny Panel may scrutinise the finances for the joint services.

The Joint Scrutiny Panel will report annually, by way of a report to the Joint Board and each Council, on their workings and make recommendations for future work programmes and amended working methods as appropriate.

Meetings of the Panel

The Joint Scrutiny Panel will meet quarterly for the business stated. Additional meetings will be arranged as required.

The date and time of each meeting will be agreed by the group.

The Joint Scrutiny Panel is not subject to statutory Access to Information rules, it may meet in private but where ever possible shall allow access to the public.

The host authority will be responsible for issuing the papers and producing the meeting notes to all the attendees.

Quorum

The quorum for the Joint Scrutiny Panel shall be 3 members with a minimum of 1 representative per authority.

Chair of the Joint Scrutiny Panel

The Chair of Joint Scrutiny Panel will be rotated amongst each authority. The host authority members will agree the chair for each meeting.

Any working group created will elect their chair.

Agenda items

The Joint Scrutiny Panel shall consider the following:

- Minutes of the last meeting;
- Declarations of interest (including whipping declarations);
- Reports from the three shared services;
- Feedback from any reviews;
- Consideration of any matter that may be referred to each authority's Scrutiny Committee for a decision in relation to call in of a decision;
- Responses of the Joint Board to reports of the Scrutiny Committee;
- Business otherwise set out on the agenda for the meeting;
- Communication that will be issued from the group.

Additional items for the agenda

- Identifying and overseeing shared scrutiny reviews for the 3 authorities;
- Member development opportunities.

Members of the Joint Scrutiny Panel

Each member of the Joint Scrutiny Panel will also be responsible for:

- Updating their respective authorities on the services;
- Presenting reports on the services to their respective authorities;
- Identifying and overseeing shared reviews for the 3 authorities;
- Contributing to member development activities for scrutiny.

Work Programme

The Scrutiny Panel will determine what items it will include in its work programme and in doing so shall take into account the wishes of Scrutiny Members. Cabinet Members will not decide the Joint Scrutiny Panel Work Programme. However, the Joint Scrutiny Panel will consider whether to include requests on the agenda from any other relevant stakeholder.

Call In

The Joint Scrutiny Panel will have no 'call in' powers. However the members of the panel may identify joint service items to call in by their respective authority.

Review of the Panel

The Joint Scrutiny Panel will review its progress and the terms of reference on an annual basis as part of the annual report to the Joint Board.

Complaints to the Standards Board

Year	Number	PC	DC	Review requested	ESO investigation	Monitoring Officer investigation	Hearing	Outstanding
2002	3	2	1		3		2	
2003	10	5	5		5		1	
2004	12	8	4		3	0	0	
2005	6	3*	3		2	0	0	
2006	10	9	1		3	1	0	
2007	3	2	1		0	0	0	
2008 to 8/5/08	2	1	1		0	0	0	
2008 from 8/5/08	9	6	4**	1	2	5	1	0
2009	17	13	4***	0	2	5	0	0
2010	6	6	0	0	0	0	0	0
2011	8+	4	5			1		3

* 1 complaint was made against an entire Parish Council but this has been shown as one complaint

** 1 complaint was against a councillor as both a Parish and District Councillor.

*** Each of the 4 complaints was against 4 councillors

+ one complaint was withdrawn before the LAC met and another was a repeat complaint.

Average time taken to reach a decision by the LAC

Year	Number of Complaints	average time to LAC decision
2010	6	20
2011	5	23.4

3rd August 2011.

STANDARDS COMMITTEE WORK PLAN 2011/12

ITEM	MILESTONES	DATES OF MEETINGS	COMMENTS	STATUS
1. Annual report to Council by Chairman of Standards Committee		<ul style="list-style-type: none"> 24th April 2012 	<ul style="list-style-type: none"> Suggested date 	Not yet Started
2. Review of training needs – District and Parish Councillors	<ul style="list-style-type: none"> District Councillors Parish Councillors Monitoring of attendance 	<ul style="list-style-type: none"> progress reports at each meeting 	<ul style="list-style-type: none"> District Cllrs – the induction has taken place. Parish Cllrs – needs reviewing at 21st February 2012 meeting when Localism Bill has been enacted. 	Ongoing
3. Annual Reports -	<ul style="list-style-type: none"> Year end number of complaints against District and Parish Councillors received by the Standards Board Gifts and hospitality Registers RIPA 	<ul style="list-style-type: none"> 20/6/2011 20/6/2011 20/6/2011. 	<ul style="list-style-type: none"> Considered at a previous meeting Considered at a previous meeting Considered at a previous meeting. 	<ul style="list-style-type: none"> Done Done Done

ITEM	MILESTONES	DATES OF MEETINGS	COMMENTS	STATUS
4. Liaison meetings	<ul style="list-style-type: none"> Meeting of Chairman with District Council's CEO Meeting of Chairman with each of the 3 political parties' Leaders 	<ul style="list-style-type: none"> 24th April 2012 4th January 2012 	<ul style="list-style-type: none"> It is suggested that this is put on hold and the meeting takes place as part of the consultation on the new code under the Localism Act 2011. 	<ul style="list-style-type: none"> Not yet started Not yet started
5. Review of guidance to members involved with the Planning process	<ul style="list-style-type: none"> To be determined in 2011/12 depending on the progress of the Localism Bill. 	<ul style="list-style-type: none"> 21st December 2012 		<ul style="list-style-type: none"> Not yet started
6. Review of Constitution			<ul style="list-style-type: none"> This is dependent on the progress of the Localism Bill. Changes will be required to the Constitution at that point. 	
	Contracts Standing orders	<ul style="list-style-type: none"> 20/6/2011. 	<ul style="list-style-type: none"> On this agenda August 2011 – these were approved by Council on 20th July and so are now in place and being acted upon. 	Done
	Financial Regulations review	<ul style="list-style-type: none"> 20/6/2011 	<ul style="list-style-type: none"> I've asked the Director of Resources to update me on when this will be available. August 2011 – the Director of Resources has confirmed that these will be presented to the next meeting on 26th October 2011. January 2012 – these are on the agenda for this meeting. 	Ongoing

ITEM	MILESTONES	DATES OF MEETINGS	COMMENTS	STATUS
	Delegation Scheme	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • This is dependent upon the Strategic Alliance and progress with arrangements. • August 2011 – an updated version is now on the web. This simply takes into account changes of title and changes to departmental structure. The scheme will need a re write following the Strategic Alliance changes. This will need to be done in parallel with NEDDC, our Strategic Alliance partner. 	Suspended
7. Development of the Annual Standards Committee work plan for 2012 to 2013	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 27/4/11. • 21/2/2012 	<ul style="list-style-type: none"> • This is dependent on the Council's decision following the enactment of the Localism Bill. • January 2012 – this will be considered as part of the Council's consideration of the Localism Act 2012. 	Not yet started
8. Partnership Governance arrangements and the ethical framework?	<ul style="list-style-type: none"> • Scoping report 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Request this is suspended until the requirements of the Localism Bill are known. 	Suspended
9. Review of Constitution User Guide	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • This is dependent on the changes to be made by the Localism Bill. 	Suspended

December 2011

Committee:	Standards Committee	Agenda Item No.:	9.
Date:	4 th January 2012	Category	*
Subject:	Constitutional Changes to arrangements for Scrutiny Committees and revised Scrutiny Procedure Rules.	Status	Open
Report by:	Solicitor to the Council		
Other Officers involved:	Chief Executive Officer Head of Customer Services and Performance		
Director	Chief Executive Officer		
Relevant Portfolio Holder	Not applicable – this relates to a Constitutional matter.		

RELEVANT CORPORATE AIMS

STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation by recognising the changes flowing from the Strategic Alliance.

TARGETS

None

VALUE FOR MONEY

This improves efficiency and is therefore a better use of tax payers money.

THE REPORT

As members are aware, this Council and North East Derbyshire District Council have formed a Strategic Alliance. As part of the arrangements for the Strategic Alliance, a Joint Chief Executive and 4 Joint Directors have now been appointed.

Current arrangements for the 3 Scrutiny Committees require the attendance of a Director, the Scrutiny Policy Officer and a Finance and a Legal Representative. Members of the Scrutiny Management Board have raised whether it is necessary to have this level of officer attendance and whether it could be changed.

In addition, the Scrutiny Management Board has requested a general review of the working arrangements of the scrutiny function. This is timely as the Scrutiny and Performance Officer post is currently vacant and scrutiny resources are therefore limited. Suggestions will be made to a future Scrutiny Management

Board with the aim of any changes being agreed prior to the commencement of the new corporate year.

ISSUES FOR CONSIDERATION

It is recommended that the requirements for the attendance of the Directors at Scrutiny meetings be ended in accordance with members' wishes and that the Scrutiny Committees be attended by the Head of Customer Service and Performance or the Solicitor to the Council together with the Scrutiny and Performance Officer or nominated representative until the post is filled. Representatives of the Finance and Legal Departments will attend as and when necessary at the discretion of the relevant Head of Service

This arrangement should be reviewed once the scrutiny arrangements have been further reviewed.

Attached to this report is a revised draft of the Scrutiny Procedure Rules for consideration. These contain other minor changes which make no substantive change to the arrangements or which reinforce the way the scrutiny function operates. The changes are shown on "track changes".

IMPLICATIONS

Financial : None

Legal : The Scrutiny Procedure Rules form part of the Constitution and therefore are required by law to be kept up to date.

Human Resources : As in the report.

RECOMMENDATION(S)

- 1. that members approve the deletion of the requirement for Directors to attend the 3 Scrutiny Committees**
- 2. that members recommend to Council the approval of the revised Scrutiny Procedure Rules.**

ATTACHMENT: **Y – draft Scrutiny Procedure Rules below**
FILE REFERENCE: **None**
SOURCE DOCUMENT: **Constitution**

4.5 SCRUTINY PROCEDURE RULES

4.5.1 The Number and Arrangements for Scrutiny Committee The Council will have three Scrutiny Committees, which will perform all scrutiny functions on behalf of the Council. The three Scrutiny Committees will be the Sustainable Communities Scrutiny Committee, the Improvement Scrutiny Committee and the Safe and Inclusive Scrutiny Committee. Each Committee will consist of 9 or 10 members of the Council as decided by Council at its annual Meeting. There will also be up to 3 non-voting co-optees on each Scrutiny Committee.

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The Council will also have a Scrutiny Management Board, consisting of the Chairs and Vice Chairs of the 3 Scrutiny Committees and the Leader of the Opposition plus the Leader of the Council as a non voting member.

(1) The **Terms of Reference** of the Scrutiny Committees and the Scrutiny Management Board will be as outlined in Part 3 of this Constitution.

(2) Where one of the Scrutiny Committees seeks to discontinue or appoint subcommittees other than as set out in this Constitution, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the Chief Executive Officer and then to the next meeting of the Council by the Chair of the relevant Scrutiny Committee, so that the Constitution may be amended accordingly.

4.5.2 Who May Sit on Scrutiny Committee?

All Councillors [except members of the Executive] may be members of the Scrutiny Committees. However, no member may be a member of more than one Scrutiny Committee. No member may be involved in scrutinising a decision in which that Member has been directly involved.

4.5.3 Co-optees

Each Scrutiny Committee or each Scrutiny sub-Committee shall be entitled to recommend to Council the appointment of such nonvoting co-optees as the Scrutiny Committee or Scrutiny sub-Committee considers appropriate.

4.5.4 Meetings of the Scrutiny Committee

The Scrutiny Committee shall meet in accordance with the timetable of meetings approved by the Annual Meeting of Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting of one of the Scrutiny Committees may be called by the Chief Executive Officer if considered necessary following consultation with the Chair of the relevant Scrutiny Committee.

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Attendance at the Scrutiny Committee meetings by officers will be by the following officers:-

- Head of Customer Service and Performance or the Solicitor to the Council

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• The Scrutiny and Performance Officer or representative as delegated by Head of Customer Service and Performance

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• At the discretion of the Head of the relevant Department, a representative from each of the Financial Services and Legal Services will attend

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• Other officers as necessary

4.5.5 Quorum

The quorum for each Scrutiny Committee shall be one quarter of the members of the Scrutiny Committee.

4.5.6 Who Chairs the Meetings of the Scrutiny Committees?

The Chair of each Scrutiny Committee and any sub-Committee will be drawn from among the Councillors sitting on the relevant Scrutiny Committee or sub-Committee, and subject to this requirement the Committee or sub-Committee may appoint such a person as it considers appropriate as Chair.

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4.5.7 Work Programme

The Scrutiny Management Board will be responsible for setting the 4 year work programme and the Annual Work Plan for each of the 3 Scrutiny Committees and in doing so it shall take into account the wishes of members of the 3 Scrutiny Committees including the wishes of those who are not members of the largest political group on the Council. The work programme shall include matters on which there are requests from the Council or the Executive for advice.

4.5.8 Agenda Items

a) Any member of the relevant Scrutiny Committee shall be entitled to give notice to the Chief Executive Officer that that person wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive Officer will ensure that it is included on the next available agenda.

b) The relevant Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the relevant Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the relevant Scrutiny Committee within one month of receiving them.

4.5.9 Policy Review and Development

a) The role of the Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Scrutiny Committees may

make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.

c) The Scrutiny Committees, through specially set up working groups, may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

d) All Patch Management Policies are to be considered by the relevant Scrutiny Committee before being considered by Scrutiny Management Board. The Scrutiny Management Board will then make its recommendations to the Executive.

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4.5.10 Reports from the Scrutiny Committees

a) Once it has formed recommendations on proposals for development, the relevant Scrutiny Committee will prepare a formal report and submit it to the Chief Executive Officer for consideration by the Scrutiny Management Board prior to consideration by the Executive (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

b) If the relevant the Scrutiny Committee cannot agree on one single final report to the Scrutiny Management Board, then up to one minority report may be prepared and submitted for consideration by the Scrutiny Management Board with the majority report. The Scrutiny Management Board will determine whether both reports are presented to the Executive or Council.

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c) The Executive shall consider the report of the Scrutiny Committee at its next ordinary meeting following submission of the report to the Chief Executive Officer. Where a report is submitted to the Council, the report shall be considered at the next ordinary meeting of the Council provided that the Executive has met in the meantime and had the opportunity to formulate its views on the report. If the Executive has not had that opportunity, the report will be considered at the following meeting of the Council.

4.5.11 Making Sure that Scrutiny Reports are Considered by the Executive

a) Once the relevant Scrutiny Committee has completed its deliberations on any matter and the Scrutiny Management Board has considered the report, a copy of its final report will be forwarded to the Chief Executive Officer who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Chief Executive Officer refers the matter to Council, that Officer will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks in which to

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respond to the Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from a Scrutiny Committee and the Scrutiny Management Board on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Executive to the Scrutiny proposals.

b) The Scrutiny Committees will in any event have access to the Executive's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny Committee following consideration of possible policy/service developments, the relevant Scrutiny Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

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4.5.12 Rights of Scrutiny Committee Members to Documents

a) In addition to their rights as Councillors, members of the 3 Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

b) Nothing in this paragraph prevents more detailed liaison between the Executive and the 3 Scrutiny Committees and the Scrutiny Management Board as appropriate depending on the particular matter under consideration.

4.5.13 Members and Officers Giving Account

(a) Any Scrutiny Committee or sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service, the Director of Resources, the Monitoring Officer and any Director or Head of Service to attend before it to explain in relation to matters within their remit:

i. any particular decision or series of decisions;

ii. the extent to which the actions taken implement Council policy, and/or Service performance.

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iii. and it is the duty of those persons to attend if so required.

(b) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that Committee will inform the Chief Executive Officer. The Chief Executive Officer shall inform the Member or officer in writing giving at least 15 working days notice of the meeting at which that person is required to attend. The notice will state the nature of the item on which the Member or officer is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Chair of the requiring Scrutiny Committee

shall in consultation with the member or officer arrange an alternative date for attendance. ~~This is to ensure that meetings at which relevant accountable employees, who are giving evidence in response to a petition, are conducted in a professional and fair manner.~~

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(d)

4.5.14 Attendance by Others

A Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Members and officers in other parts of the public sector and shall invite such people to attend. Attendance is entirely optional.

4.5.15 Call In

a) When a decision is made by the Executive or a committee of the Executive, or a key decision is made by an officer with delegated authority from the Executive or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council. All Members of the Council will be sent copies of the records of all such decisions, by the person responsible for publishing the decision.

b) The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless two members of any of the 3 Scrutiny Committees call in the decision. Members shall call in a decision of the Executive in accordance with the procedure appended to these rules. The called in item will be considered by the relevant Scrutiny Committee at its next ordinary meeting.

In the event of a called in item being within the terms of reference of more than 1 Scrutiny Committee, it will be for the Scrutiny Management Board to determine which Scrutiny Committee the item will go to.

c) The relevant Portfolio Member shall be informed of the Callin of the relevant item and informed of the date at which the relevant Scrutiny Committee will consider the item, so that the Portfolio Member may attend that meeting of the relevant Scrutiny Committee to answer the call in.

d) The members calling in the item shall be informed of the date at which the relevant Scrutiny committee will consider the item.

e) If, having considered the decision and if the relevant Scrutiny Committee so decides, they may refer the matter back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred back to the decision maker and if the decision maker is the Executive, the matter shall be considered at the next ordinary meeting of the Executive. If the decision maker is an officer, then the decision maker shall reconsider the matter within 15 working days of the relevant Scrutiny Committee consideration of the matter. In both cases the decision maker shall reconsider the matter in the light of the

Scrutiny Committee's concerns, and then amend the decision or not, before adopting a final decision.

f) If the matter is called in for a second time by three members of the relevant Scrutiny Committee in accordance with the procedure, the matter will be referred to the next ordinary meeting of the Council. If the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the Budget and Policy Framework, or not wholly consistent with the Budget and Policy Framework. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, the matter will be reconsidered at the next ordinary meeting of the Executive. Where the decision was made by an individual, the individual will reconsider the matter within 15 working days of the Council request.

g) If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

h) Formal noting by the Executive of decisions made by the Leader however, will not be subject to a second opportunity for Scrutiny Call – In.

4.5.16 Call In and Urgency

a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive Officer's consent is required. In all cases the chair of the relevant Scrutiny Committee should be consulted before a decision is made. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

4.5.17 The Party Whip

When considering any matter in respect of which a member of the relevant Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it before the commencement of the

relevant Committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

4.5.18 Procedure at Scrutiny Committee Meetings

(1) Business to be Considered

Scrutiny Committees shall consider the following business;

- i) minutes of the last meeting;
- ii) declarations of interest (including whipping declarations);
- iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
- iv) responses of the Executive to reports of the Committee.
- v) the performance information being presented to the Scrutiny Committee and
- vi) the business otherwise set out on the agenda for the meeting.

(2) Attendance by Portfolio Holders

Portfolio Holders will attend a Scrutiny Committee meeting where performance information relevant to the portfolio is being presented.

(3) Conducting Investigations

Where the Scrutiny Committee conduct investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
- iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(4) Report Following Investigation

Following any investigation or review, the relevant Committee shall prepare a report, for submission to the Scrutiny Management Board. The Scrutiny Management Board may then submit the report to the Executive and/or Council as appropriate and shall make its report and findings public.

4.5.19 Annual Scrutiny Conference

Each year the Scrutiny Management Board will organise an Annual Scrutiny Conference to consider proposals for the 3 Scrutiny Committees' Annual Work Plans and progress on the 4 year work plan. Portfolio Holders should be invited to attend this Conference.

Deleted: Annual

Standards Committee 4th January 2012

Localism Act – Report on provisions relating to the Constitution.

Localism Act – the Constitution

New Part 1A Local Government Act 2000

Forms of Executive

- Can be an Executive (Mayor and Cabinet or Leader and Cabinet), Committee system or other as proscribed in Regulations.

Executive functions

Generally the Act makes provision for a split between Executive and Council of functions. The split is very similar to now – that all functions are to be those of the Executive unless specified to be those of the Council. However much remains to be clarified in the Regulations.

Executive

- The Leader will be appointed by Council. It is for the Council to decide the term – the mandatory 4 year term has gone.
- The procedure for the Council to appoint must be included (presumably) in the Constitution. This may make provision for the term of office of the Leader and must make provision for the procedure for removing the Leader.
- It is for the Leader to determine the number on the Executive, who they are and there is still a requirement for the Leader to appoint a Deputy.
- The Executive is still a maximum of 10 councillors and minimum of the Leader plus 2.
- The Leader will arrange for the discharge of Executive functions by:-

The Leader

The Executive

Another Executive member

A Committee of Executive

An Area Committee

An Officer of the Council

- The Leader has the power to determine that Executive functions are dealt with differently as long as they are exercised by one of the above.

- Other than where expressed in Regulations it will be for the Executive to say whether meetings are open or not.
- There must be a record of all Executive and Executive member decisions which must be kept and the record must include reasons for decisions. These records to be available to the public. Regulations could provide for it to be a criminal offence for the record not to be made available.

Scrutiny

- Required to have if Executive arrangements are in place.
- Must have power to make reports and recommendations on any aspect of Council business and on any matters which affect the Authority's area or its inhabitants.
- The provision for call in of Executive decisions remains.
- Still not allowed a Joint Scrutiny Committee unless for Health or Community Safety.
- Secretary of State may issue guidance and if he does we must have regard to it.
- The requirement to have a Scrutiny Officer remains with County. There is no such requirement on us.
- Scrutiny Committee can publish their reports and require Executive to respond and require that the Executive's response is published also.
- Scrutiny Committee can require Partner organisations (other than health and community safety partners) to have regard to their reports.
- Information from partners – Secretary of State may make regulations clarifying what information they must provide to a Scrutiny Committee.

Committee System

- Regulations may specify what can't be delegated to a Committee and must therefore stay with Council.
- A Council with a Committee system may also have a Scrutiny Committee.
- All other detail appears to be within the proposed Regulations, including when.

Constitution

- Required to be maintained and made available to the public.
- It will include Standing Orders, the Code of Conduct plus whatever else the Secretary of State sets out in Regulations.

Timescales

We don't know yet. In relation to the Code of Conduct, the DCLG plans to have the provisions in place for April 2012 and thus in time for our Annual Meeting.

Committee:	Standards Committee	Agenda Item No.:	11.
Date:	4 th January 2012	Category	*
Subject:	Localism Act – Standards Framework	Status	Open
Report by:	Sarah Sternberg – Solicitor to the Council and Monitoring Officer		
Other Officers involved:	Legal and Standards Officer and Deputy Monitoring Officer		
Director			
Relevant Portfolio Holder	N/A		

RELEVANT CORPORATE AIMS

COMMUNITY SAFETY – Ensuring that communities are safe and secure
CUSTOMER FOCUSED SERVICES – Providing excellent customer focused services

ENVIRONMENT – Promoting and enhancing a clean and sustainable environment

REGENERATION – Developing healthy, prosperous and sustainable communities

SOCIAL INCLUSION – Promoting fairness, equality and lifelong learning.

STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation.

This is part of the ethical framework and so affects all corporate aims

TARGETS

None.

VALUE FOR MONEY

This report does not involve the expenditure of money.

THE REPORT

Attached at page 39 is a note of the expected outcomes of the Localism Act in relation to codes of conduct and the ethical framework. Attached at page 41 is a note by Weightmans Solicitors (one of our Panel Solicitors at EM Lawshare)

Members are invited to read these and comment.

This raises a number of practical issues. Attached at page 50 is the latest from Standards for England about their demise, which is imminent. Clearly the Government expects Councils to move swiftly. However, currently draft Regulations are awaited.

ISSUES FOR CONSIDERATION

In order to progress this, I would like members’ views on the following:-

1) **Draft indicative timetable**

This suggested timetable is subject to what the Regulations say as to what needs doing and when by.

Advertise for and selection process for an “Independent Person”	January/ March 2012
Pursue appointment of “Independent Person” from NEDDC Standards Committee and Vice Versa	January/March 2012
Consultation with District Councillors	January/February 2012
Chair’s meeting with the 3 Party Leaders	March 2012
Discuss arrangements with the Parish Councils	January/March 2012
Changes to Standing Orders in the Constitution to Standards Committee	January/March 2012
Changes to Standing Orders in the Constitution to Council	25 th April 2012
Council approval	28 th March 2012

2) The idea promoted in Weightmans note that we consider co-opted members of Bolsover’s Standards Committee acting as an Independent Person for a neighbouring authority and vice versa.

I have raised this as a possibility with our Strategic Alliance partner, North East Derbyshire District Council.

- 3) Placing advertisements for the Independent Person in early New Year, subject to any requirements as to where the advert must be placed. Full Council will have to appoint the Independent Person, it cannot be delegated.
- 4) Consultation will have to take place with Parish Councils in the District's area as to the system for dealing with complaints and as to the Code of Conduct.
- 5) District Councillors should also be consulted over the Code of Conduct and the Complaint Process.
- 6) Standing Orders will need amending to cover what happens when a Councillor declares a Pecuniary Interest in terms of leaving the meeting. However, there are no draft Regulations in relation to Pecuniary Interests as yet.
- 7) Contact to be made with Derbyshire Constabulary about arrangements for dealing with failure to declare a pecuniary interest.

The next meeting of the Standards Committee is on the 21st February when we should know more about how this will work.

IMPLICATIONS

Financial : None

Legal : As in the report

Human Resources : Role of Monitoring Officer

RECOMMENDATION(S)

that Members

- 1) Provide views on the issues raised on the report and outline any additional areas of concern.
- 2) Give preliminary approval to the indicative timetable subject to the contents of the Regulations

ATTACHMENT: **Y – Note from Weightmans solicitors, note of Solicitor to the Council, copy e mail from the Standards for England**

FILE REFERENCE: **None**

SOURCE DOCUMENT: **Localism Act 2011**

Localism Bill

Standards Clauses

The Bill is currently in the House of Lords where the Government has had to make amendments in relation to the ethical framework provisions. The Bill does have to return to the House of Commons prior to being passed, but I think it unlikely that these provisions would be changed again by the Government. Such a move would clearly undermine their Leader in the Lords.

The amendments as made give a feel for how the legislation would look, but would of course be subject to the detail being made available. The main point of the legislation as it currently stands are: -

- The Council and the Parish Councils **must** adopt a code dealing with the conduct expected of Councillors.
- A Parish Council may comply by adopting the District's code.
- The code must be consistent with the Nolan principles of public life.
- The code must include provision for registration of pecuniary interests and interests other than pecuniary interests.
- The code may include other provisions.
- The Council must have in place arrangements for the investigation of complaints and for making decisions on allegations.
- These arrangements must include the appointment of an independent person, who cannot be a Member of Standards or any other Committee or an Officer of the Council or an Officer or Councillor of a Parish Council. The exclusions include relatives, close friends or anyone who has been a Councillor or Co-optee in the last 5 years. The Independent Person's views:-
 - Are to be sought (i.e. must be sought) and taken into account by the Council before it makes a decision on an allegation it has decided to investigate.
 - May be sought by the Council in other circumstances or by a (Parish) Councillor the subject of the allegation.

- The appointment of the Independent Person must be by advert, application and approval of the appointment by the majority of the Council.
- The Independent Person may be paid allowances or expenses.
- An allegation is defined as a written allegation that a (Parish) Councillor has failed to comply with the (Parish) Council's Code of Conduct.
- Relative means spouse or civil partner, cohabite, grandparent, parent, sibling or child.

Their Lordships have also made some changes to "clarify" the predetermination clause. This has at least been a useful discussion on where the balance lies between a Councillor being biased or having made up his or her mind or simply com-----? On a particular subject.

Sarah Sternberg
2/11/2011

Update

Ethical standards and the Localism Act 2011

Summary

The Localism Act has received the Royal Assent. This is the first in a series of articles about the Act, this time dealing with the new member conduct regime. The headlines are:

- The "Standards Board regime" and all the current legislation will be repealed.
- There will be a new general duty to promote and maintain high standards of conduct by members and voting co-opted members.
- Each "relevant authority" must adopt a code which deals with the conduct expected of members and voting co-opted members when acting in that capacity. It must be consistent with a new set of general principles and the rest of the new legislation, but there will be no national model. It will need to include provisions about members' interests but most of the content is for the authority to decide.
- Regulations will define "disclosable pecuniary interests" of members and spouses/partners. The monitoring officer will keep and publish a register of these as before, but the details of the duty to notify are different. Members will have to make an oral disclosure at meetings if their interest has not been registered. As before, sensitive information can be kept private if there is a risk of violence or intimidation.
- A member with an interest of this kind in a matter must not participate in any discussion of, or vote on, the matter at the meeting. Standing orders may require the member to leave the meeting. There is a similar rule for individual member decisions.
- It is a criminal offence to fail to notify the monitoring officer of an interest of this kind, or to participate in a meeting or take a decision, without reasonable excuse. It is also an offence knowingly or recklessly to provide false or misleading information. Only the DPP can authorise prosecutions, and there are time limits.
- The authority can, however, grant dispensations permitting participation. The grounds for so doing are much wider than before.
- Authorities must have in place "arrangements" under which allegations of breach of the code can be investigated and decisions on allegations can be taken, with or without an investigation or a hearing. This could, but need not, include some kind of standards committee. However, there are no sanctions apart from naming and shaming and possibly withdrawal of facilities in some cases.
- Authorities must appoint an "independent person" (IP). They must consult the IP after an investigation, and may consult the IP on other complaints. A member about whom an allegation has been made can also consult the IP. It is hard to see how this will work. The IP cannot be, or have been in the last five years, a member, co-opted member or officer of the authority. This probably rules out their current Standards Committee members.
- This all applies to parish councils, with modifications, except that their principal authorities will make and operate the "arrangements" for them and they will use the principal authority's IP.
- The main gaps are the absence of any national coordination or consistency, and the lack of any express controls over disrespect, bullying, intimidation, misuse of position or resources or breach of confidentiality, underlined by the omission of "respect" and "stewardship" from the new list of principles. An authority's code may cover these issues, but this is optional.
- The Government hopes the legislation will take effect in April 2012 but the Regulations about disclosable pecuniary interests have not yet been published. There will be transitional arrangements for existing casework.

- There is a great deal of choice for authorities within this framework, and they will need to work quickly to develop their code, their "arrangements" and standing orders, to delegate the power to grant dispensations and appoint one or more IPs.

Introduction

The Localism Act received Royal Assent on 15 November 2011. Chapter 7 is simply called "Standards" but it deals with how the conduct of local authority members and co-opted members is to be regulated. It gives effect to the Coalition Government's promises to "abolish the Standards Board regime", whilst retaining a "safety net". A long debate in the House of Lords produced a promise to rethink the size and shape of the net, and some last minute amendments were hurriedly zipped into place. This is the outcome.

Or rather, this is the outcome for "relevant authorities": the usual list, but excluding local authorities in Wales, who keep their own version of the old legislation. The new ethical standards provisions apply to local authorities, police authorities in England or Wales and the Metropolitan Police Authority (while they still exist), the London Fire and Emergency Planning Authority, fire and rescue authorities in England, and National Park authorities, amongst others.

First, the Act repeals the relevant sections of the Local Government Act 2000, and the subordinate legislation, so that we start with a clean sheet of paper. Out go Standards for England, the national regulator, the national code of conduct and the special standards committees that local authorities had to appoint. As the 2000 Act abolished much of the previous regime, the sheet of paper has never been cleaner. Then the Act starts to sketch in the safety net.

General duty

The Act places a general obligation on relevant authorities to promote and maintain high standards of conduct by members and voting co-opted members of the authority, including elected mayors.

Code of Conduct

In discharging this obligation, authorities must adopt a code which deals with the conduct expected of members and co-opted members of the authority when acting in that capacity. This is a decision for full council or a full meeting of the authority.

This is narrower than the old system, which could in some circumstances catch the behaviour of members acting in some other capacity – for example in their private lives – if there was sufficient connection between the misbehaviour and their office as a councillor. The exact scope of "acting in that capacity" remains to be determined. The tricky areas are members who use authority facilities for some disreputable private purpose, such as accessing child pornography, members who release confidential information to their friends, and members who use their status as a councillor to obtain an advantage in their private lives.

The limitation to voting members means that the code will not apply to non-voting members of Scrutiny and Area Committees and the like. An authority could ask them to agree to abide by the code in any event, and refuse to appoint them, or remove them, if they do not, but this would be a non-statutory process and will need careful thought.

The Code adopted by the authority must be consistent with the new statutory principles of selflessness, integrity and objectivity, accountability, openness, honesty and leadership. This replaces the old "general principles", and there are some subtle differences. Out go "personal judgement", "duty to uphold the law", "stewardship" and, significantly, "respect for others". As Groucho Marx said "Those are my principles, and if you don't like them... well, I have others."

The Code must also include provisions which the authority considers appropriate in respect of the registration of interests and the disclosure of "pecuniary interests", and in respect of interests other than pecuniary interests. The phrase "pecuniary interests" harks back to the pre 2000 legislation, and to the old case law about what on earth it might mean, although as usual there is a slight difference between the old and new wording. The general idea is that you have a pecuniary interest if you stand to gain or lose in some financial or material way.

The duty to ensure consistency with the new list of principles, and to make provision for the registration and disclosure of interests, does not mean that the code cannot cover other issues. This is a matter of choice.

Sections 29 to 34 of the Act make specific provision as to "disclosable pecuniary interests", and the register of interests, and Codes must comply with those provisions. It is probably necessary to make some provision for other interests, such as membership of a pressure group, but the requirement is to make "such provision as the authority considers appropriate" and this could be seen as an opportunity to make no provision at all. The authority may either revise the existing code or adopt a new code. All authorities will need to make changes to their existing codes to reflect the new disclosable pecuniary interests and to deal with the registration of interests provisions, which will be subject to further Regulations. The authority must publicise the adoption, revision or replacement of the code in such a way that will bring it to the attention of persons who live in the area.

Register of interests

Section 29 provides that the monitoring officer must establish and maintain a register of members' interests, and it is for the authority to determine what is to be entered in that register. No entries should be retained on the register if the interest no longer exists or the person concerned is no longer a member. The authority's monitoring officer must ensure that the register is available for public inspection and on the Council's website.

Members are obliged within 28 days of being appointed as a member or voting co-opted member to notify the monitoring officer of a "disclosable pecuniary interest" held at the time of notification. Regulations will determine what is to count as a disclosable pecuniary interest. It will include the interests of members themselves and (if the member is aware of the interest) those of their spouse, civil partner, or any person living with them as their spouse or civil partner. This is narrower than the current code. The monitoring officer must then ensure that it appears in the register. There is no duty, however, to keep these particulars up to date. New interests arising on the 29th day or thereafter, until the next election, need not be notified unless the member needs to disclose the interest under the following rules.

As before, if the member's interest is such that he or she, and the monitoring officer, consider that there is a risk of the member or some connected person being subject to violence or intimidation, then neither the entry in the register or the disclosure at the meeting need specify the nature of the interest.

Disclosing interests at meetings

If a member has a disclosable pecuniary interest in any matter considered at a meeting at which that member is present, the interest is not entered in the authority's register, and the member is aware of the interest, the member must disclose the interest to the meeting. It is not clear whether the member needs to explain the nature of the interest, but this is probable. This requirement applies to executive or cabinet meetings, and executive committees and sub committees, but not explicitly to other informal meetings. The code could provide for wider application.

Participation

If a member discloses an interest, he or she must not participate in any discussion of, or vote on, the matter at the meeting, subject to any dispensations which may apply. There is no statutory requirement for the member to leave the room, but the authority may make standing orders that have this effect. This is likely to be necessary because the

Ombudsman and the courts have been unhappy about cases where a member with an interest has orchestrated debate from the public gallery, but old issues about members' speaking rights as a member of the public may make it sensible to copy forward the provisions of the current model code which allow them limited speaking rights in their personal capacity.

The requirement also applies to any decisions taken by a single executive member or a ward member exercising delegated powers in his or her ward. In such cases, the member must not take any steps, or further steps, in relation to the matter (apart from making arrangements for someone else to deal with it).

If the member discloses an interest, he or she must notify the monitoring officer of the interest, so that it can be added to the register.

Offences

Section 34 provides that a person commits an offence if, without reasonable excuse, he or she:

- fails to notify the monitoring officer of a disclosable pecuniary interest within the time period;
- participates in any discussion or vote at a meeting where he or she has a disclosable pecuniary interest; or
- takes any steps or further steps in relation to the matter in which he or she has a disclosable pecuniary interest, where he or she would otherwise take the decision personally.

An offence is also committed if the information provided to the monitoring officer is false or misleading, and the member knows it is false or misleading, or is reckless as to whether the information is true and not misleading.

Prosecution must be by or on behalf of the DPP. A member guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000). A court may also disqualify the member from being or becoming a member for a maximum of 5 years. Proceedings must be brought within 12 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge. However, proceedings cannot be brought more than three years after the commission of the offence, or, for a continuous contravention, after the last date on which the offence was committed.

Although the authority has to consider whether it is appropriate for the code to contain provisions about the registration of other interests (that is to say, interests that are not "disclosable pecuniary interests"), and standing orders about leaving the room, there is no specific statutory obligation to notify the monitoring officer of those interests and no criminal offence connected with these requirements.

Dispensations

The authority may grant a dispensation relieving the member from either not participating in the discussion or voting or both. He or she must make a written request to the "proper officer". The criteria are wider than before. A dispensation may be granted only if, having had regard to all the relevant circumstances, the authority considers that:

- without the dispensation, the number of persons prohibited by section from participating in this particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- without the dispensation, the representation of different political groups on the body transacting this particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- granting the dispensation is in the interests of persons living in the authority's area;
- in the case of authorities operating executive arrangements, without the dispensation each member of the authority's executive would be prohibited from participating; or
- it is otherwise appropriate to grant a dispensation.

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Arrangements for allegations and investigations

So far, then, relevant authorities are subject to a general duty to promote and maintain high standards of conduct, so they cannot ignore the entire issue. They have to adopt a code of conduct. It must be consistent with the new list of general principles. It will have to be consistent with the requirements for registering and disclosing certain pecuniary interests, in accordance with Regulations that have not yet appeared, and for non-participation in meetings or single-member decision making if you have such an interest, and failure to comply with those provisions may be an offence. It could contain similar provisions relating to other personal interests. It could also contain other requirements. But what happens if someone thinks that a member has breached the code?

The Act provides that local authorities must have in place "arrangements" under which allegations of breach can be investigated and decisions on allegations can be made. Those provisions must include the appointment of at least one independent person whose views must be sought and taken into account before the authority makes a decision on an allegation it has decided to investigate, and whose views may be sought on other allegations. The independent person's views may also be sought by a member or co-opted member whose behaviour is the subject of an allegation.

The independent person cannot be a member, co-opted member or officer of the authority, a member, or a relative or close friend of any of those people, nor can the independent person have been a member, co-opted member or officer of the authority at any time in the last five years.

The Act provides for the appointment of the independent person, following public advertisement and a vote at full Council, and permits the payment of allowances and expenses.

If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation) it may have regard to the failure in deciding whether to take "action" in relation to the member or co-opted member, and what action to take. What action? There are no statutory sanctions at all. Ministers have said that censure – naming and shaming – would be a sufficient sanction. Case law indicates that it would be possible for the authority to withdraw access to its facilities, if this is a relevant and proportionate response to the breach. The authority will need a clear understanding of the options.

The authority itself will not be able to remove members from positions of responsibility, though. The leader or elected mayor chooses the cabinet, and under section 16 of the Local Government and Housing Act 1989 the membership of non-executive committees is determined by the political groups.

Constitutional issues

The code has to be adopted by full Council (authorities that are not "councils" will have to forgive our shorthand here). All these functions are non-executive, and cannot be discharged by the cabinet. That means that either everything goes to full Council, or the function has to be delegated to a committee and/or to officers. The committee can do other things, apart from scrutiny, and committees dealing with standards, audit and governance will be popular.

A committee will be constituted under sections 101 and 102 of the Local Government Act 1972. It will have to be politically balanced. It can co-opt other members but they cannot vote, unless this is to be an "advisory committee" with no decision-making powers. The co-opted members cannot chair the committee, because they could not exercise a casting vote. Existing independent members and independent chairs could be reappointed in this way, but the selection paraphernalia will disappear. You would have to be a bit nervous about a hearing involving a pack of articulate independent members who have no vote at the end.

The new "independent person" cannot have been a member or co-opted member in the last five years, so (unless there is some flexibility around the statutory definitions which is not immediately apparent) an independent Standards Committee

chair cannot perform this role. Perhaps the answer is swapsies: your independent chair can become your neighbour's independent person and vice versa.

The "arrangements" will be left to the authority, but the same basic set of decisions and processes will have to be covered one way or another as under the present system. Is this a valid complaint? Does it relate to other authorities? Should it be referred to the police? Should it be investigated, and who will conduct the investigation? Should some other steps be taken, such as attempting reconciliation? After an investigation, should there be a hearing? Will a written exchange be sufficient? Who will decide if action should be taken, and what the action should be? If there is a hearing, the basic principles of natural justice will have to be observed. It will be very difficult to design a system which covers all the ground without replicating the old system, especially as members – and the courts – will be familiar with the old processes and all the checks and balances, but there will be a clear expectation that this will happen.

Note, though, that the investigator will have no power to require people to attend interviews, or to access documents.

How does the independent person fit in? He or she may be consulted on any complaint and must be consulted if there is an investigation. Does the monitoring officer consult the independent person routinely on all complaints, and, if so, will it be safe for the independent person to be consulted again after the investigation. What happens if the independent person, the monitoring officer and the committee disagree? And how does this fit with the ability of the member against whom the complaint has been made to consult the independent person? A bright councillor who learns that a complaint has been made about him will immediately contact the independent person, give her a skewed account of events and a rag bag of confidential information, contrive a record of what he thinks he has been told and sit back and wait for the mess to unravel.

There is nothing to stop an authority delegating all or most of this to an officer, perhaps the chief executive or the monitoring officer, with only the final decision about "taking action" reserved to members. This is what happened in practice before standards committees were invented. But the expectation of due process, and the appetite for councillor-versus-councillor complaints, will not go away, so the pressure on that officer would be considerable. It is possible that the absence of any real sanction will increase the number of complaints by members against each other: some will see this as an opportunity for knockabout name calling without the risk of serious consequences.

The same issues about the balance of transparency, privacy and the ability to deal with difficult complaints effectively will arise, and the arrangements will have to be clear about what will be public and what will be private, who will be told what, and when they will be told. The committee will meet in public unless a resolution is passed on the basis that one or more of the old exemption criteria apply (such as "information relating to any individual") and that the balance of the public interest favours secrecy. The special exemption categories that related to Standards Committee proceedings will disappear. As the criterion relates to the disclosure of "information", it is hard to see how the committee could retire to deliberate its decision.

It is tempting to think that none of this is important, because complaints about pecuniary interests will be passed to the police, and the rest of the process will be about less serious issues, but it will not work like that in practice. The code will have to cover the pecuniary interest issues, and there will be complaints about them, as well as multiple complaints of more than one type of breach. The police may not be interested. They may take a long time to decide if they want to investigate. They may launch a protracted investigation and express the view that no internal process should be followed. This will be endlessly complicated, but in the end these serious complaints are likely to have to find their way through the "arrangements".

Authorities will also have to delegate the power to grant dispensations. It would make sense to delegate this to the committee but to give the monitoring officer power to grant dispensations on the less subjective grounds so that this decision can be made quickly, if the issue arises, as it often does, shortly before the meeting to which it relates.

Parish Councils

The duty to "police" the conduct of parish councillors has placed a substantial burden on many local authorities and their monitoring officers. Earlier versions of the Bill ignored parish councils, but there was an expectation from the Parliamentary debates that parish councils would have a limited self-policing duty. Surprisingly, the Act retains the old relationship.

Parish councils are "relevant authorities", so the provisions outlined above apply to them, but with some changes:

- They may adopt their own code of conduct, or they can adopt the Code that applies to members of their principal authority.
- The principal authority's monitoring officer keeps the register of interests. The authority must help the parish council to publicise its code on its website, if it has one, as well as publicising it in the same way as its own code.
- They need not make arrangements for the investigation of, or decisions on, allegations of breaches of the code.
- Their principal authority has to make these arrangements for all its parish councils.
- The principal authority's independent person may be consulted by a member or co-opted member of a parish council against whom an allegation has been made.
- Although the principal authority must have arrangements in place for taking "decisions" on allegations against parish councillors, it appears that any consequential "action" can only be taken by the parish council.

This means, though, that the rules about disclosing interests and participation apply to parish councillors in the same way as they apply to other relevant authorities.

It also means that the power to grant a dispensation can be exercised by the parish council. This could be a regular occurrence, as the criteria are very broad. It is not clear whether parish councils will be able to grant their members blanket dispensations, or whether the decision has to be issue-based. The latter is more likely.

Thoughts

In many ways this turns the clock back to 1999. The general duty and the new principles are platitudes which authorities would always have acknowledged. The pecuniary interest provisions, and the offences, are not too different from sections 94 to 98 of the Local Government Act 1972. The option to include other provisions in the code is comparable to the old advisory National Code of Local Government Practice, which was embedded in a Government circular. The "arrangements" for allegations and investigations are likely to resemble the toothless voluntary standards committees which many authorities put in place after the Nolan Committee Report but before the 2000 Act, but they could just involve an enhanced complaints procedure. As with the 1972 Act provisions, the police will only be interested if there is clear evidence of what might be called corruption. The Government's initial promise that the Ombudsman would be given enhanced powers to police the Code have been shelved, presumably because it was linked to the concept of mandatory reports, but before 2000, and even under the 2000 Act regime, the Ombudsman could, and did, investigate maladministration complaints involving member misconduct.

Even then, the new safety net is looser than the old one. Surcharge for wilful misconduct was abolished in 2000 and is not being revived.

On the other hand, the relationship between parish and principal councils is a creature of the 2000 Act, and has been kept. Monitoring officers who have to deal with dozens of parish councils, some chaotic and dysfunctional, will not be pleased. And the role of the "independent person", thrown into the mix at the end of the Parliamentary proceedings for largely presentational reasons, will take some working out. At first glance, it looks problematic.

The real gaps are the absence of any national coordination or consistency and the lack of any express controls over disrespect, bullying, intimidation, misuse of position or resources or breach of confidentiality. The former may be filled by ACSeS guidance, but there will be so many choices for authorities that this will be difficult to frame. The latter can be covered in the optional part of the new code, but many authorities will prefer a minimalist approach. The Government has signalled its position by dumping "respect" and "stewardship" from the new list of principles. Even with an expanded code, the lack of genuine sanctions means that nothing much can be done about serial disrespect or bullying, especially if the member in question chooses to fight his or her corner in the local press (which usually compounds the breach). Members will no longer be obliged to undertake to abide by the code, so their declaration of acceptance of office will just say "I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability." Some members will no doubt judge it unnecessary to abide by the provisions of the code that they do not like.

Next steps

The existing system will continue until this part of the Act comes into force. There will be transitional legislation, but it is not in the Act. A CLG statement in December 2010 said that all complaints and cases in the system when the law changes will be taken to their conclusion. Any Standards for England investigations will transfer to the local authority. Tribunals and Standards Committees will complete the cases that are referred to them, but there will be no right of appeal from Standards Committee decisions, and Standards Committees will have no power to disqualify, limiting their sanctions to censure and requiring training.

The Government's stated intention is to bring this into force by April 2012, so the new system can be put in place at Annual Council. As we have not yet seen draft regulations, this is ambitious. There is a great deal to do and authorities will have many difficult choices.

These are the key issues:

- What kind of code does the authority want? An ultra-minimalist code would just cover disclosable pecuniary interests (mostly a rehash of the primary legislation) accompanied by a determination that it is not appropriate to cover other interests or other matters. At the other end of the spectrum, many authorities will adopt a code that is very similar to the existing code, or the ACSeS model, and of course there is a lot of territory in between. This will involve a debate with members and political groups about both the fundamental principles and the detailed provisions. Individual members' likes and dislikes will figure prominently. It will not be possible to work on any of the details until the Regulations have been published.
- Authorities cannot extend the code to cover activity other than in the member's capacity as a member, but they will need to think about the gap between the statutory rules for formal meetings and all the other things that they do. They will also have to think about non-voting co-opted members.
- If there are parishes, what will their position be? They will need to decide whether to adopt the principal authority's code or one of their own. Does the principal authority want to consult them on its code? They will need information and, in due course, training.
- Do existing independent members of Standards Committees have an advisory role in addressing these issues? They will have devoted considerable time and energy to their role in the past, and there will need to be a dialogue with them about moving forwards.
- What process will the authority follow to develop the code and the other arrangements?

- Once the Regulations and the code are in place, monitoring officers will have to recast their system for recording members' interests, including the system for parish councils.
- New standing orders will be needed covering the process for disclosing and recording interests. They will need to deal with whether and when members can remain in the room.
- The authority will have to decide what kind of member-level body is to discharge these functions. Broadly speaking, there is the general function of promoting high standards of conduct, which implies information, publicity and training, and there are the "arrangements" for dealing with complaints and investigations. If there is to be a committee, will it do other things? Will it appoint sub-committees for specific tasks like hearings? Will it co-opt non-voting members, and, if so, for what purposes?
- The power to grant dispensations will have to be delegated to a member-level body and/or an officer, and a process put in place.
- The arrangements for dealing with complaints, investigations and decisions to take action will have to be drawn up, discussed with members and formally agreed. This will not be easy.
- The monitoring officer will have to put arrangements in place with the police for referring complaints which allege or disclose criminal offences. At the very least they will need a contact point, but it would be sensible to think about what happens next.
- One or more independent persons will have to be selected, following advertisement, and appointed. Protocols will need to be agreed, dovetailed with the "arrangements".
- Ideally, authorities and monitoring officers should consult their neighbours, and other authorities to which they nominate members, and counties should talk to districts. It will be extremely confusing if they all have slightly different codes and procedures.

Further updates on the progress of this part of the Act will be provided later.

Further information about Weightmans LLP or to discuss any of the issues in this update, please contact Claire Lefort in the Local Government Team of Weightmans LLP on 0207 822 1935 or at claire.lefort@weightmans.com or Graeme Creer on 0151 243 9834 or at graeme.creer@weightmans.com.

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Alison Bluff

From: James Cessford [James.Cessford@standardsboard.gov.uk]
Sent: 06 December 2011 15:25
To: Sarah Sternberg
Subject: Arrangements relating to the abolition of Standards for England CRM:00871644

Dear Ms Sternberg

ARRANGEMENTS RELATING TO THE ABOLITION OF STANDARDS FOR ENGLAND

As you will already no doubt be aware, it is the government's intention to effect the abolition of the "Standards Board Regime" through the Localism Act 2011. This means that, under the standards provisions of the Act, Standards for England is to be abolished.

The government has now clarified the timetable for our abolition in response to a parliamentary question from Lord Greaves, although this is still subject to formal confirmation through regulations. It is the government's intention that our abolition will take effect on 31 March 2012.

Prior to this, our regulatory role in handling cases on your behalf and issuing guidance will stop from a date that will be set out in regulations but, as noted in the government's response to Lord Greaves, is anticipated to be 31 January 2012.

From this date, Standards for England will no longer have powers to accept new referrals from local standards committees or conduct investigations into complaints against members. Any existing referrals or investigations we have at that time will be transferred back to the relevant authority for completion. However, any complaints which are being handled locally on that date will need to continue through to a conclusion; and similarly any matters relating to completed investigations or appeals which have been referred to the First Tier Tribunal will continue to conclusion.

As stated, this means we will be returning, to local authorities, any existing referrals or open investigations which we have been unable to complete by 31 January. We currently have a number of cases which we expect will not be completed by this date, and we have already contacted the monitoring officers in question to agree handover arrangements.

You may also wish to note that - while we can continue to receive referrals of new cases up to 31 January, and we will continue to assess whether it is in the public interest to take them on or not for the short time remaining - it will become increasingly unlikely that we will feel in a position to take a case where the investigation is likely to go beyond the end of January.

Standards for England staff will, of course, continue to be on-hand between now and the end of January to facilitate the transfer of existing referrals and open cases back to local standards committees, as well as to provide advice and guidance on the current framework.

Please note that these arrangements relate only to the role of Standards for England in the current standards framework. It is for DCLG to confirm when the other standards elements of the Localism Act 2011, such as the removal of powers from existing local standards committees, the requirement to adopt a local Code and to appoint an

independent member, will come into force.

Any questions about future standards arrangements should therefore be referred to the Local Government Standards team in the Conduct and Council Constitutions Division at the Department for Communities and Local Government (DCLG). They can be contacted via the DCLG switchboard on 0303 444 0000. We will be working closely with DCLG to ensure an orderly handover and closure of our organisation.

We take this opportunity to thank you for your support and co-operation in recent months. Please do not hesitate to contact us if you require further details about any of the above information. Our enquiries line is 0845 078 8181.

Yours sincerely,

Tim Leslie
Interim Chief Executive

Agenda Item 12

Standards Committee 4th January 2012

Financial Regulations Review.

4.7 FINANCIAL REGULATIONS

Note: all references to Departments, Directors and Heads of Services within these Financial Regulations shall be deemed to incorporate also both the Chief Executive Officer and Director of Corporate Resources.

4.7.1 General

(1) The finances of the Council shall be subject to the regulations and control of the Executive and these regulations shall apply to all Directorates, Departments and officers of the Council.

(2) Any officers of the Council receiving from a government department or other source any communication of any kind which has financial implications shall immediately notify the Chief Executive Officer and the Director of Corporate Resources who shall be consulted in connection with any correspondence or discussion concerning financial issues.

Deleted: involving finance.

(3) Prior to the submission of any agenda item having a financial implication the relevant Head of Service shall consult with the Director of Corporate Resources and such report shall include a note of the Director of Corporate Resource's advice where such advice is necessary.

Deleted: advice is given.

(4) No financial matter shall be considered by the Executive unless an item in relation thereto appears on the Agenda for the meeting and there has been prior consultation between the Chief Executive Officer, the Director of Corporate Resources and the Head of Service concerned.

(5) Section 151 of the Local Government Act 1972, states "every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".

(6) Section 114 of the Local Government Finance Act 1988, requires the Chief Financial Officer (the Director of Corporate Resources) to report on unlawful or potentially unlawful expenditure of a course of action likely to cause loss or deficiency.

~~(7) Where a contract is being let for a contract sum of £10,000 or above and whether or not the contract is one to which it is proposed that the Council will be~~

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a party in common with other local or public authorities or the private sector, prior to commencing the contract letting process:-

a) A report of the details of the proposed contract will be submitted to the Procurement Management Board in a form to be agreed by the Procurement Management Board

b) The Procurement Management Board will offer advice and assistance on the procurement. In the exceptional case where it is proposed that the Procurement Management Board's advice and assistance is not to be followed the matter will be referred to Senior Management Team.

4.7.2 Revenue Estimates

(1) The detailed form of revenue estimates shall be determined by the Director of Corporate Resources consistent with the general direction of the Executive as outlined in the approved Budget Strategy

(2) Estimates of income and expenditure on revenue accounts, reserves and provisions for the subsequent financial year shall be prepared by the Director of Corporate Resources in consultation with the Chief Executive Officer and then referred to Strategic Alliance Management Team. All estimates shall be forwarded to the Executive to report thereon with its recommendations to the Council.

(3) Executive shall upon receipt of the report of the Director of Corporate Resources make recommendations to the Council concerning the approval of a 3 year medium term financial plan and the amount of the Council Tax to be levied.

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(4) The 3 year medium financial plan will be compiled using a prioritisation process for revenue bids which will assess:-

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a) Contribution towards the Council's Corporate Aims

b) Statutory obligations

c) Financial implications (including VFM)

d) Risk

(5) Any proposal to the Executive or a Committee, which would involve the incurring of expenditure during a year in respect of which the Council has approved a budget or a programme of capital expenditure shall be accompanied by a report of the Head of Service concerned indicating the sufficiency or otherwise of the finance provision in the budget or programme.

(6) Expenditure shall not be incurred or a reduction in income authorised unless it is included in the annual estimates or is covered by a supplementary estimate.

(7) Strategic Alliance Management Team and Heads of Service shall have the authority to transfer savings from one budget area towards additional expenditure in another budget area. Heads of Service shall have the authority to vire in any

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one financial year, up to the value of £1,500 direct employee expenses excepted.

Strategic Alliance Management Team shall have the authority to vire up to the value of £10,000. Above this limit the consent of the Executive shall be obtained.

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(8) Subject to the above, upon approval by the Council of the annual estimates the Executive or service Committee or Director or Head of Service as appropriate shall be entitled to incur the expenditure authorised therein.

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(9) It shall be the responsibility of each appropriate officer to expend the budget allocation efficiently, effectively and economically and ensure that no approved estimates shall be overspent.

(10) The Director of Corporate Resources shall ensure that the Chief Executive Officer and each Head of Service and Director has detailed information of receipts and payments under each head of approved estimate and such other relevant information as agreed between them.

4.7.3 Capital Programmes

(1) A capital programme covering a period of three years shall be prepared annually by the Director of Corporate Resources in consultation with the Chief Executive Officer and Strategic Alliance Management Team for inclusion in the Budget. All capital estimates shall be forwarded to the Executive who shall report thereon with recommendations to the Council.

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(2) The Capital Programme will be compiled using a prioritisation process for capital projects which will assess:-

- a) Contribution towards the Council's Corporate Aims
- b) Statutory Obligations
- c) Financial implications (including VFM and external funding opportunities)
- d) Risk

(3) If an urgent and unforeseen item of capital expenditure becomes necessary, the Executive shall be informed at the earliest possible stage and the project may only proceed after appropriate funding has been identified and approved.

(4) No scheme shall commence until such a scheme and its associated revenue costs have been approved by Executive or Council as appropriate.

4.7.4 Accounting

(1) The Director of Corporate Resources shall be responsible for keeping the accounts of the Council and all accounting procedures and financial records of the Council and its officers in a way approved by that officer.

(2) It shall be the duty of the Director of Corporate Resources to arrange for a satisfactory, and as far as possible, uniform accounting system to be adopted throughout the Council and the introduction or amendment of any books, forms or procedures and computer systems with regard to cash, stores or other accounts shall require the prior approval of the Director of Corporate Resources.

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All such accounting records shall be in accordance with appropriate legislation, and relevant codes of accounting practice.

(3) The Director of Corporate Resources shall supervise and keep under review safe and efficient arrangements for the receipt of monies paid to the Council and the issue of monies payable by the Council and in particular, the following principles shall be observed in the allocation of accounting duties:-

(a) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.

(b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

(4) The Director of Corporate Resources shall be responsible for the preparation of the Council's Annual Accounts and shall:-

a. prepare a Statement of Accounts by the 30th June each year and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body's income and expenditure for that year, and

b. recertify and present for approval by the Audit Committee by the 30th September each year, the Statement of Accounts

in accordance with the Accounts and Audit (England) Regulations 2011.

4.7.5 Banking Arrangements

(1) The Director of Corporate Resources shall be authorised to operate such banking accounts as that officer thinks fit with the bankers approved from time to time by the Council but shall report each account opened to the Executive.

(2) All arrangements regarding the Council's banking accounts with the bankers and for the issue of cheques shall be made by or under arrangements approved by the Director of Corporate Resources.

(3) All banking stationery, including cheques, shall be ordered on the authority of the Director of Corporate Resources who shall make proper arrangements for safe custody.

4.7.6 Income

(1) The collection of all money due to the Council shall be under the supervision of the Director of Corporate Resources. The Chief Executive Officer, Directors and each Head of Service shall provide the Director of Corporate Resources with a list of officers authorised to sign accounts, or requests for accounts, on his behalf together with specimen signatures and a note of any restrictions applying thereto. Amendments to such lists shall be notified to the Director of Corporate Resources on the occasion of any change. All accounts issued in respect of

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monies due to the Council shall be made through the Director of Corporate Resources or under arrangements approved by that officer.

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(2) Each Head of Service shall furnish the Director of Corporate Resources with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required by that officer to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.

(3) The Director of Corporate Resources shall be notified promptly of all money due to the Council and shall be advised of proposals which may generate income prior to any contracts, leases, agreements or arrangements being entered into.

(4) All official receipts, forms, books, tickets, order books and other documents representing monies worth shall be ordered, controlled and issued to Departments by the Director of Corporate Resources.

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(5) All monies received on behalf of the Council in any Department shall be deposited promptly and intact with the Director of Corporate Resources or otherwise as that officer directs. Money held or received by or on behalf of the Council shall not be borrowed or used to encash personal cheques or for any other purpose.

(6) Every transfer of official money from one member of staff to another shall be evidenced in the records of the Departments concerned by entry of the amount and dated signature of the receiving officer.

(7) Each officer who receives money on behalf of the Council or for which that officer is accountable to the Council shall keep an accurate and chronological account of all receipts and their deposit with the Director of Corporate Resources, the Council's bankers or as otherwise directed by the Director of Corporate Resources.

(8) The Director of Corporate Resources shall be empowered to write off sums up to and including £1,000 where recovery seems impossible or impracticable. Records supporting these write offs will be made available on request. Amounts in excess of £1,000 shall not be written off without the authority of the Executive.

4.7.7 Insurance

(1) The Director of Corporate Resources shall effect all insurance cover including establishing insurance reserves and provisions where appropriate and negotiate all claims in consultation with other Officers where necessary.

(2) Heads of Services shall give prompt notification to the Director of Corporate Resources of all proposals involving properties, vehicles or other new risks which require to be insured and of any alterations affecting existing insurance.

(3) Heads of Services shall notify the Director of Corporate Resources immediately of any loss, liability or damage or any event or circumstances likely to lead to a claim.

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(4) The Director of Corporate Resources shall annually or at such other period as that officer may consider necessary review all insurance in consultation with the Chief Executive Officer or Directors or Heads of Service as necessary.

4.7.8 Treasury Management and Trust Funds

(1) All investments of money and all borrowings shall be made in the name of the Council and all securities shall be held in the custody of the Director of Corporate Resources or other Officer so designated.

(2) The Director of Corporate Resources shall be the Council's registrar of stock, bonds and mortgages and shall maintain records of all borrowing of money by the Council, except that the Director of Corporate Resources shall be empowered to name the Council's bankers as registrar in respect of any particular issue when they deem this necessary.

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(3) All matters in connection with the borrowing of monies including bank overdraft within the limits approved by the Council and all other matters in connection with the raising or repayment of loans shall be carried out by the Director of Corporate Resources subject to the approval of the Executive.

(4) The investment or utilisation of monies on hand and other accumulations and the sale or realisation of investments shall be undertaken by the Director of Corporate Resources subject to the approval of the Executive.

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(5) All trust funds shall wherever possible be in the name of the Council and all Officers acting as trustees by virtue of their official position shall deposit all securities relating to the trust with the Council's Bankers unless the deed provides otherwise in which case they shall notify the Chief Executive Officer or Director of Corporate Resources as appropriate of the circumstances.

(6) This Council has adopted CIPFA's "Code for Treasury Management in Local Authorities" and the Director of Corporate Resources will undertake the Council's Treasury Management function in line with that guidance.

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(7) A Treasury Policy Statement setting out its strategy and procedures shall be adopted by the Council and thereafter its implementation and monitoring shall be delegated to the Executive.

(8) All money (as defined in the Code) in the hands of the Council shall be aggregated for the purposes of Treasury Management and shall be under the control of the Officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the Code as the Chief Financial Officer (Director of Corporate Resources).

(9) All executive decisions on borrowing, investment or financing shall be delegated to the Director of Corporate Resources through that officer to staff, who shall all be required to act in accordance with CIPFA's "Code for Treasury Management in Local Authorities".

(10) The Director of Corporate Resources shall report quarterly to the Executive on the activities of the Treasury Management operation and on the exercise of Treasury Management powers delegated to that officer. One such report shall

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comprise an Annual Report on the Treasury Management for presentation by 30th September of the succeeding financial year.

Advance Accounts

(1) The Director of Corporate Resources shall provide such advance accounts as that officer considers appropriate for such officers of the Council as may need them for the purpose of defraying expenses. Such accounts shall be maintained on an imprest system and Officers holding these accounts shall maintain a record of their receipts and payments in the form and manner prescribed by the Director of Corporate Resources.

(2) Where the Director of Corporate Resources considers appropriate an account shall be opened with the Council's bankers for use by the imprest holder who shall not cause such an account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holders banking account shall be reported immediately to the Director of Corporate Resources.

(3) No income received on behalf of the Council may be paid into an advance account but must be paid over to the Director of Corporate Resources as provided in these regulations.

(4) Payment shall be limited to minor items of expenditure of amount and nature approved by the Director of Corporate Resources and shall be supported by a receipted voucher to the extent that officer may require.

(5) An Officer responsible for an advance account shall give to the Director of Corporate Resources a certificate as to the money held at 31st March each year and at any other time as specifically requested, or before leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest advance, account to the Director of Corporate Resources for the amount advanced.

4.7.10 Ordering of Work, Goods and Services

(1) All orders for goods, work or services shall be in a form agreed by the Director of Corporate Resources and must clearly show the nature and/or quantity of goods, materials, work or services to be supplied to the Council and the estimated cost. Official orders should be submitted via electronic methods where possible. All verbal orders must be confirmed by a written order not later than the next working day. All orders placed must comply with the Council's Contracts Standing Orders and associated guidance. Each electronic order must have a commitment raised and a satisfactory audit trail.

(2) No order shall be issued for work, goods or services, the cost of which is not covered by the approved annual estimates or by special financial provision.

(3) Official orders shall be signed only by Directors or Heads of Service or Officers authorised by them. Heads of Service shall be responsible for all official orders issued from their department. A list of Officers authorised to sign on behalf of the Council together with specimen signatures shall be supplied to the Director of Corporate Resources by the appropriate Head of Service with a note of any

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limit applying thereto. Amendments to such lists shall be notified to the Director of Corporate Resources on the occasion of any change.

4.7.11 Payment of Accounts

(1) Directors and Heads of Service shall have authority to incur expenditure on routine matters and within approved estimates provided:

(a) it complies with Contracts Standing Orders and these Financial Regulations,

(b) it is in accordance with approved Council policy,

(c) competitive tenders or quotations are obtained where appropriate and in all cases endeavour is made to obtain the best value for money.

The signature of the Head of Service or such Officer nominated by the Head of Service, on any order, account or goods received note shall be on the basis, that these requirements have been met.

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(2) Directors and Heads of Service issuing an order shall be responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment, voucher or account arising from sources within their area of responsibility. Such certification shall be in either electronic form where systems and policy permit or in manuscript by or on behalf of the Director or Head of Service and before certifying an account the certifying officer shall be satisfied that:-

(a) the work, goods or services to which the account relates have been received, carried out, examined and approved;

(b) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;

(c) the expenditure has been duly authorised and is within the estimates as indicated by the expenditure code allocated;

(d) appropriate entries have been made in inventories, store records or stock books as required; and

(e) the account has not been previously passed for payment and is properly payable by the Council.

(3) Duly certified accounts shall be passed without delay to the Director of Corporate Resources who shall examine them to the extent that officer considers necessary, for which purpose that officer shall be entitled to make such enquiries and to receive such information and explanation as that officer may require.

(4) Any amendment to an account shall be made in ink and initialled by the Officer making it, stating briefly the reasons where these are not self-evident. Any electronic invoice requiring amendment must be returned to the Supplier, or a Credit Note/Supplementary Invoice requested prior to payment.

(5) Each Director and Head of Service shall, as soon as possible after 31st March and in any case not later than the date set by the Director of Corporate

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Resources, notify the Director of Corporate Resources of all outstanding expenditure relating to the previous financial year.

(6) A list of officers authorised to sign on behalf of the Director and Heads of Service, together with specimen signatures, shall be supplied to the Director of Corporate Resources by the appropriate officer with a note of any limit applying thereto. Amendments to such lists shall be notified to the Director of Corporate Resources on the occasion of any change.

4.7.12 Contracts for Building, Constructional or Engineering Works

(1) Details of every Contract, Agreement, Award or other instrument involving the payment or receipt of money by the Council shall be forwarded to the Director of Corporate Resources immediately after execution.

(2) Where contracts provide for payment to be made by instalment, the Director of Corporate Resources shall arrange for the keeping of a contract register or registers to show the state of account on each contract between the Council and the Contractor, together with any payments and related professional fees.

(3) Payments to Contractors on account of contract shall be made only on a certificate issued by the responsible Officer which shall show the total amount of the contract, the value of work executed to date, materials not fixed, retention money, amount paid to date, amount now certified due and the liability to value added tax.

(4) Variations in amount, additional payments and any overspending on all contracts shall be notified to the Director of Corporate Resources and reported to the Executive or relevant Committee as appropriate by the relevant Head of Service provided always that the variation, additional payment, or overspending exceeds ~~s~~ ten thousand pounds or ten per cent of the contract sum whichever is the lower.

(5) Variations to contracts must be covered by the issue, at the time, of a Variation Order, a copy of which must be forwarded to the Director of Corporate Resources and all relevant documents, including measurement and working papers and minutes of site meetings to be made available to the Director of Corporate Resources.

(6) The final certificate, on completion of a contract, shall not be issued by the responsible officer until the Head of the Internal Audit Consortium has examined and reported on a detailed final account which with all vouchers and documents, including those relating to prime cost items and full particulars of additions, deductions and omissions, shall be produced to the Head of Internal Audit Consortium, who shall be entitled to receive such information and explanations as the Head of Internal Audit Consortium may require in order to be satisfied as to the accuracy of the accounts.

4.7.13 Salaries and Wages

(1) The payment of all salaries, wages and pensions, compensation and other emoluments to all employees or former employees of the Council shall be made

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by the Head of Human Resources and Payroll, under arrangements approved and controlled by the Director of Corporate Resources. The Head of Human Resources and Payroll is authorised to implement national salary and wage awards.

(2) All time records or other pay documents shall be in a form prescribed by the Head of Human Resources and Payroll and shall be certified in manuscript. A list of officers authorised to sign together with specimen signatures shall be supplied to the Head of Human Resources and Payroll by the Director of Corporate Resources with a note of any limit applying thereto. Amendments to such lists shall be notified to the Head of Human Resources and Payroll on the occasion of any change, by the Director of Corporate Resources,

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(3) The Head of Human Resources and Payroll is authorised to implement annual increases in salaries and wages in accordance with locally agreed schemes.

(4) The Head of Human Resources and Payroll shall notify the Director of Corporate Resources as soon as possible of all matters affecting the payment of emoluments, and anything else related to this which affects budgets.

4.7.14 Officer's Expenses

(1) All claims for payment of car allowances, travelling and incidental expenses shall be submitted, duly certified in a form approved by the Head of Human Resources and Payroll, to that officer, made up to a specified day of each month, within seven days thereof. A list of officers authorised to sign on behalf of the Director or Head of Service as appropriate, together with specimen signatures shall be supplied by the Director of Corporate Resources with a note of any limit applying thereto. Amendments to such lists shall be notified to the Head of Human Resources and Payroll by the Director of Corporate Resources on the occasion of any change.

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(2) The Motor Insurance Policy of any Officer required to use their vehicle on Council business shall cover the official use of the vehicle in the service of the Council. Officers in receipt of Car Allowances, shall certify that such insurance cover is in place. Spot checks will be implemented by the Payroll Manager to ensure compliance.

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(3) The certification by or on behalf of a Director or Head of Service as appropriate, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred, relevant valid receipts are attached and that the allowances are properly payable by the Council.

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(4) Officers' expense claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Director of Corporate Resources. Officers must make their own arrangements to seek approval.

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(5) The Head of Human Resources and Payroll shall be authorised to implement national/local amendments to rates of travelling and incidental expenses.

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4.7.15 Security

(1) Each Director and Head of Service as appropriate is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under that officer's control.

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(2) Maximum limits for cash holdings shall be agreed with the Director of Corporate Resources and shall not be exceeded without that officer's express permission.

(3) Keys for safes and similar receptacles are to be kept in a secure place under the control of one officer or upon the person of those responsible at all times and any loss of such keys must be reported to the Chief Executive Officer and Director of Corporate Resources forthwith. Arrangements for the retention of duplicate keys must be expressly approved by the Chief Executive Officer.

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(4) The Director of Corporate Services shall be responsible for maintaining proper security and privacy with regard to information held in any computer installation or for use of such installation.

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(5) The Solicitor to the Council shall have custody of all title deeds and agreements under secure arrangements agreed with the Chief Executive Officer and shall ensure that all titles are registered at the Land Registry as soon as is practicable after coming into the Council's possession.

4.7.16 Stocks and Stores

(1) Each Director and Head of Service as appropriate shall be responsible for the care and custody of the stocks and stores in his Department and shall see that all stocks and stores received and issued are promptly recorded.

(2) The Director of Corporate Resources, In conjunction with the relevant Director and Head of Service as appropriate, shall make such arrangements for stock taking as the Director of Corporate Resources may deem necessary.

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(3) The Director of Corporate Resources shall be entitled to receive from each Director or Head of Service as appropriate such information as the Director of Corporate Resources requires in relation to stores for accounting, costing and financial records.

(4) The level of stocks shall be agreed between the Chief Executive Officer and the Director or Head of Service as appropriate.

(5) The value of materials and stores considered by the responsible Director or Head of Service as appropriate, to be surplus to the Council's requirements shall be certified by the Director or Head of Service as appropriate, prior to disposal. Where the value exceeds £1,000 the items shall be disposed of following report to the Executive or Committee concerned by competitive tender or public auction unless the Committee decides otherwise in a particular case. Where the value is under £1,000 the Chief Executive Officer shall be entitled to dispose of surplus items as the Chief Executive Officer thinks fit in the best interests of the Council but shall subsequently report thereon to the Executive or Committee concerned.

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4.7.17 Council Assets

(1) The Solicitor to the Council or such other officer nominated by the Chief Executive Officer will maintain a terrier of all properties owned by the Council (except dwellings provided under the Housing Acts), in a form approved by the Director of Corporate Resources.

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(2) The Director of Corporate Resources will maintain an Asset Register of all assets owned by the Council and in a form in accordance with appropriate legislation and relevant codes of accounting practice.

(3) The Director or Head of Service, as appropriate, is responsible for safeguarding all equipment under their control.

(4) The Director of Corporate Resources shall be entitled to receive from the Director or Head of Service as appropriate, such information as the Director of Corporate Resources requires in relation to assets for accounting, costing and financial recording purposes.

(5) The value of assets considered by the responsible Director or Head of Service as appropriate to be surplus to the Council's requirements shall be certified by the Director or the Head of Service as appropriate, prior to disposal. Where the value exceeds £1,000, the items shall be disposed of following report to the Executive or Committee concerned by competitive tender or public auction unless the Executive or Committee decides otherwise in a particular case. Where the value is under £1,000 the Chief Executive Officer shall be entitled to dispose of surplus assets as the Chief Executive Officer thinks fit in the best interests of the Council but shall subsequently report thereon to the Executive or Committee concerned. Any disposal of land and/or property assets must be made in accordance with the approved strategy.

4.7.18 Member's Allowances

(1) The Head of Human Resources and Payroll shall operate the payment of Members' Allowances and expenses in accordance with the Council's approved scheme.

(2) The Head of Human Resources and Payroll is authorised to implement any prescribed amendments to rates of Members' Allowances and expenses with subsequent report to the Council.

(3) Payments to Members, including co-opted Members of the Council or its Committees who are entitled to claim travelling or other allowances will be made by the Head of Human Resources and Payroll upon receipt of the prescribed form duly completed.

4.7.19 Audit

(1) The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which simply requires that authorities "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has a responsibility for the administration of those affairs".

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(2) The Accounts and Audit (England) Regulations 2011, made by the Secretary of State for the Environment require every local authority to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper internal audit practices.

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(3) The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Act 1982, as amended by section 5 of the Audit Commission Act 1998.

(4) Local authorities can also be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

(5) The Council's internal audit service is provided by an Internal Audit Consortium covering Bolsover, Chesterfield and North East Derbyshire Councils. The Internal Audit Consortium will provide an independent and objective appraisal of systems of internal control. The Internal Audit Consortium will comply with the Standards set out in the CIPFA Code of Practice for Internal Audit in Local Government 2006.

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(6) A continuous internal audit will be provided by the Internal Audit Consortium in accordance with an internal audit plan agreed by the Director of Corporate Resources (as client officer) and the Council's Audit Committee. Planned audits will include the examination of accounting, financial and other operations of the Council including:

(a) The appraisal and review of the adequacy of internal controls and thereby providing assurances for the annual Statement of Internal Control.

(b) The completeness, reliability and integrity of information, both financial and operational.

(c) The systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e., rules established by the management of the organisation, or externally.

(d) The means of safeguarding assets.

(e) The economy, efficiency and effectiveness with which resources are employed.

(f) Whether operations are being carried out as planned and objectives and goals are being met.

(7) Accordingly, the Chief Executive Officer, Director of Corporate Resources and the Head of the Internal Audit Consortium or their authorised representatives shall have authority to:-

(a) Enter at all reasonable times on any Council premises or land.

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(b) Have access to all assets, records (both electronic and otherwise), documents, correspondence relating to any financial and other transactions of the Council and control systems.

(c) Require and receive any information and explanation considered necessary concerning any matter under examination.

(d) Require any employee of the Council to produce or account for cash, stores or any other Council property under the employees control.

(e) Access records belonging to third parties, such as contractors, where appropriate.

(f) Have direct access to the Chief Executive, Director of Corporate Resources, Solicitor to the Council and Monitoring Officer, other Director~~s~~, all levels of management, the Executive, Audit Committee and elected Members.

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(8) The Head of the Internal Audit Consortium will issue audit reports promptly to the Head of Service/Director concerned and to the Director of Corporate Resources (as client officer) detailing the findings and any recommendations arising from each audit.

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(9) Heads of Service/Directors will then ensure that internal audit reports are considered and Implementation Schedules are returned to the Head of the Internal Audit Consortium within the time scales detailed in the report. Any recommendations that are not agreed will be reported to the Audit Committee in the quarterly report. Heads of Service/Directors if appropriate will inform the Head of the Internal Audit Consortium of any internal controls or changes to existing internal controls.

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(10) The Head of the Internal Audit Consortium will present an Annual Report to the Audit Committee and a report on the Internal Audit Plan and Risk Assessment each year.

(11) The Head of the Internal Audit Consortium will report quarterly (or at other agreed intervals) to the Audit Committee on progress against the internal audit plan, including a summary of reports issued and numbers of recommendations made/accepted. Audit issues in relation to any impropriety of Members will be reported to the Standards Committee.

4.7.20 Fraud, Corruption and Irregularities

(1) The Council will not tolerate fraud, corruption or irregularity in the administration of its responsibilities, whether from inside or outside the Council. The strong counter fraud and corruption culture is supported and promoted by Members and Senior Officers.

(2) Internal Audit Consortium Staff should be alert in all their work to risks and exposures that could allow fraud and corruption and have developed the Council's Anti-Fraud and Corruption Strategy. All cases of discovered or

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suspected fraud, corruption or irregularity, should be reported as soon as possible to at least one of the following:-

- (a) The Head of Service,
- (b) The Head of the Internal Audit Consortium
- (c) The Director of Corporate Resources,
- (d) The Chief Executive Officer.

(3) The Officer to whom this is reported should then pursue the matter in accordance with the Anti-Fraud & Corruption Strategy.

(4) The exception to this procedure is where other arrangements are in place such as housing benefit fraud which will follow the Housing Benefits Strategy & Prosecution Policy.

4.7.21 Hospitality/Gifts

(1) Hospitality shall only be accepted if all the following conditions are complied with:-

- (a) The hospitality is received during the course of conduct of specific Council business (e.g. working lunch).
- (b) The provision of such hospitality is not extravagant.
- (c) The receipt of hospitality is approved by the Chief Executive Officer, Director or Head of Service.
- (d) A full record of the hospitality is recorded in the Departmental register. Separate written advice on giving and receiving of gifts and hospitality is available to both Members and Officers in the Members code of conduct and the Member/Officer Protocol. Members should seek advice from the Solicitor to the Council.

(2) Only gifts of small value, e.g., pens, diaries and calendars (all of which must bear the donor's name) shall be accepted. These items must be recorded in Departmental registers, used openly in the office and treated as Council property.

(3) Each Head of Service shall act in accordance with the reporting procedure in Financial Regulation 4.7.20 in respect of any offers of hospitality or gifts which do not comply with the provisions of the aforementioned Financial Regulations 4.7.21.

Note: It is an offence under the Bribery Act 2010 to offer, promise or give an advantage (broadly, offences of bribing another person) or to request, agree to receive or accept an advantage (broadly, offences of being bribed).

4.7.22 Information Technology

(1) The Director of Corporate Resources shall be responsible for the supervision development and administration of the Council's IT policy.

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- Deleted:** 108(1) and 108(2)
- Deleted:** Note: By virtue of the Prevention of Corruption Act 1916 it is presumed that any money, gift or other consideration given or received by an employee of the Council from a person holding or seeking to obtain a contract from the Council is corrupt unless proven to the contrary.¶
- Deleted:** 4.7.22 Register of Associations¶
- Deleted:** (1) Staff shall formally declare associations by friendship, trade or other means with suppliers, or potential suppliers to the Council of goods and services by making an appropriate entry in the Register of Associations held by the Chief Executive Officer.¶
- Deleted:** 3
- Deleted:** computer
- Deleted:** 1¶

(2) The usage of all the Council's computer equipment and software, including security provisions, shall be in accordance with standards specified by the Director of Corporate Resources.

Deleted: (2) The Chief Executive Officer and Director of Resources shall be consulted and their approval obtained prior to the acquisition of any computer equipment and/or computer software.¶

(3) Each Director or Head of Service as appropriate shall ensure that all usage of computer facilities within their area of responsibility complies with the provisions of the current Data Protection Jaw and the Computer Misuse Act 1990.

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(4) Any breach of these Financial Regulations should be reported immediately to all the officers listed in Financial Regulation 4.7.20. The alleged breach will be investigated and if substantiated could result in disciplinary action.

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4.7.23 Retention of Financial Records

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(1) All financial records shall be retained in accordance with arrangements determined by the Director of Corporate Resources.

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STANDARDS COMMITTEE

AGENDA

Wednesday 4th January 2012 at 1400 hours in Committee Room 1

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS	
1.	To receive apologies for absence, if any.	
2.	To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4 (b) of the Local Government Act 1972.	
3.	Members should declare the existence and nature of any personal or prejudicial interests in respect of:- a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and, if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes of a meeting held on Wednesday 26 th October 2011.	3 to 10
5.	Recommended Item from Council held on 19 th October 2011; Minute Number 510 – Amendment to the Solicitor to the Council’s Delegation Scheme. Recommendation on page 11.	11 to 13
6.	Item from Executive held on 12 th December 2011; Shared Services Scrutiny – Terms of Reference.	14 to 20
7.	Complaints to the Standards Board.	21
8.	Standards Committee Work Plan.	22 to 24
9.	Constitutional Changes to arrangements for Scrutiny Committees and revised Scrutiny Procedure Rules.	25 to 33
10.	Localism Act – Report on provisions relating to the Constitution.	34 to 35
11.	Localism Act – Standards Framework.	36 to 51
12.	Financial Regulations Review.	52 to 67