

STANDARDS COMMITTEE

**TUESDAY 21ST
FEBRUARY 2012
AT 1400 HOURS IN
COMMITTEE ROOM 1**

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Sherwood Lodge
Bolsover
Derbyshire
S44 6NF

Date: 13th February 2012

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 Tuesday 21st February 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 22.

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 4th January 2012 at 1400 hours.

PRESENT:-

Independent Members: -

J. Yates - Chair

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

Members: -

District Councillors; M. G. Crane, M. Dooley, H. J. Gilmour and D.S. Watson.

Officers:-

A. Turner (Deputy Monitoring Officer) and K. Rodda (Democratic Services Officer).

746. APOLOGIES

Apologies were received from K. Belshaw, Councillor A.M. Syrett and S. E. A. Sternberg (Solicitor and Monitoring Officer to the Council)

747. URGENT ITEMS

There were no urgent items of business to consider.

748. DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

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749. MINUTES – 26TH OCTOBER 2011

Moved by Councillor H. Gilmour, seconded by J. Jaffray

RESOLVED that subject to the seconding of Minute No. 534 by J. Jaffray, not Councillor J. Jaffray, the minutes of a meeting held on 26th October 2011 be approved as a correct record.

750. MATTERS ARISING

- (1) Minute No. 545 – Training for Standards Committee Members.

The Deputy Monitoring Officer advised the meeting that the discussion about the Standards Committee being put onto the Council's website was on hold for the moment.

751. RECOMMENDED ITEM FROM COUNCIL HELD ON 19TH OCTOBER 2011 – MINUTE NO. 510 – AMENDMENT TO THE SOLICITOR OF COUNCIL'S DELEGATION SCHEME

The Deputy Monitoring Officer presented the recommended item to the meeting which advised that that an application had been received to carry out a performance of hypnotism within the District. This had been approved at Council on 19th October 2011 and required an amendment to the delegation scheme in the Constitution, to allow the Solicitor to the Council to administer future applications.

Discussions took place about whether this was a 'performance' of hypnotism or the 'practice of hypnotism' and the Deputy Monitoring Officer stated that he would make sure that this was clear in the delegation.

Moved by Councillor M. Dooley, seconded by Councillor H. Gilmour

RESOLVED that the Constitution be amended to include such delegated powers as necessary to allow the Solicitor to the Council to be able to administer future applications.

(Head of Democratic Services)

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752. ITEM FROM EXECUTIVE HELD ON 12TH DECEMBER 2011 – SHARED SERVICES SCRUTINY – TERMS OF REFERENCE

The Deputy Monitoring Officer presented the Terms of Reference for the Shared Services Scrutiny for inclusion in the Council's Constitution to the meeting.

Moved by Councillor M. Dooley, seconded by J. Jaffray

RECOMMENDED that the Shared Services Scrutiny Terms of Reference be approved for inclusion in the Council's Constitution.

(Head of Democratic Services)

753. COMPLAINTS TO THE STANDARDS BOARD

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

The contents of the report were noted.

754. STANDARDS COMMITTEE WORK PLAN

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

The work plan was noted.

755. CONSTITUTIONAL CHANGES TO ARRANGEMENTS FOR SCRUTINY COMMITTEES AND REVISED SCRUTINY PROCEDURE RULES

The Chair informed the meeting that this item had been withdrawn.

756. LOCALISM ACT – REPORT ON PROVISIONS RELATING TO THE CONSTITUTION

The Deputy Monitoring Officer presented the report to the meeting. The Localism Bill had received Royal Assent on 15th November 2011 and would cover many areas of Local Government. There were two main areas for Standards

STANDARDS COMMITTEE

Committee to consider and this part of the report detailed possible changes to the Constitution.

Members asked questions and discussions took place.

The report was noted.

757. LOCALISM ACT – STANDARDS FRAMEWORK

The Deputy Monitoring Officer presented the report to the meeting. The report detailed possible changes to Standards; the Code of Conduct; Declarations of Interest and complaints, all of which are uncertain until the regulations have been finalised.

Discussions took place on Declarations of Interests.

A draft timetable was included in the report.

The report was noted.

758. FINANCIAL REGULATIONS REVIEW

The Deputy Monitoring Officer advised the meeting how it was necessary to update the Financial Regulations in the Constitution in line with changes that had taken place within the Authority and these were in front of Members for approval.

Moved by Councillor M. Dooley, seconded by Councillor H. Gilmour
RECOMMENDED that the changes to the Financial Regulations in the
Constitution be approved.

(Head of Democratic Services)

The meeting concluded at 1501 hours.

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"> • 	<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"> • 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 – considered at this meeting. Council to consider these on 15th February 2012. 	Done

ITEM	MILESTONES	DATES OF MEETINGS	COMMENTS	STATUS
	Delegation Scheme	•	<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"> 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?	• Scoping report	•	<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"> This is dependent on the changes to be made by the Localism Bill. 	Suspended

December 2011

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
2012	3	0	3					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	26.5
2012	3	18

3rd February 2012.

Committee:	Standards Committee	Agenda Item No.:	7.
Date:	21 st February 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. Clearly this means that there has had to be a reassessment of roles and input for the 4 Directors.

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. This accords with the wishes of SAMT to reduce the requirements for the attendance of the Directors' attendance.

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 Policy 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 and that the Scrutiny Committees be attended by the Head of CSPD or the STC together with the Scrutiny and Policy Officer. Representatives of the Finance and Legal Departments will attend as and when necessary at the discretion of the 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.

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 consider altering 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.

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 (or Deputy Leader as substitute) 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.

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

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

- The Scrutiny Policy Officer
- At the discretion of the Head of the relevant Department, a representative from each of the Financial Services and Legal Services Departments will attend
- Directors by invitation of the relevant Scrutiny Committee.
- 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, Scrutiny Management Board and any sub-Committee will be drawn from among the Councillors sitting on the relevant Scrutiny Committee, the Scrutiny Management Board or sub-Committee, and subject to this requirement the Committee or sub-Committee may appoint such a person as it considers appropriate as Chair.

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.

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.

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

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.

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 Corporate 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.
- 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 or otherwise or with members, are conducted in a professional and fair manner.

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 Call in 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 two 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' 4 year Work Plans and the particular work plan for the forthcoming year. Portfolio Holders should be invited to attend this Conference.

STANDARDS COMMITTEE – 21ST FEBRUARY 2012

-----Original Message-----

From: James Cessford [mailto:James.Cessford@standardsboard.gov.uk]

Sent: 17 January 2012 16:39

To: Sarah Sternberg

Subject: Cessation letter CRM:00872084

Dear Ms Sternberg

As you may recall, we recently wrote to you outlining the government's proposed timeframe for the intended abolition of the "Standards Board Regime", including Standards for England, through the Localism Act 2011.

We are now able to confirm, following the making of the relevant Commencement Order, that our regulatory role in handling cases on your behalf and issuing guidance will cease from 31 January 2012.

As previously outlined this means that, from the end of this month, Standards for England will no longer have powers to accept new referrals from local standards committees or conduct investigations into complaints against members.

Existing referrals or investigations which we have been unable to complete by the close of January will be transferred back to the relevant authority for completion. However, any complaints which are currently being handled locally will need to continue as will any matters relating to completed investigations or appeals which have been referred to the First Tier Tribunal. We expect DCLG to make further provisions relating to these cases and the introduction of the new framework in due course.

Where we have cases which are unlikely to be completed by the month end, we have already contacted the monitoring officers in question to agree handover arrangements.

Standards for England staff will 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.

However, please note, our role in providing guidance on the current standards framework will cease from 31 January. This means that our Guidance Enquiries function, including the Standards for England 'Enquiries' telephone, email and postal services, and the online Standards Forum will no longer exist from this date.

In addition, existing guidance products and information will be removed from our website and will no longer be available from us in hard copy after 31 January. From February our resources will be concentrated on orderly closure of the organisation, expected to happen on 31 March 2012.

However, given that the local parts of the framework will continue until DCLG commence the remaining standards provisions and relevant orders, you may wish to ensure that you have downloaded or have copies of all our existing guidance on the local standards framework before they are removed from our website.

To help facilitate this we have already taken steps to reformat the 'Guidance Documents & Pages' area of our website to feature five downloadable ZIP files containing all the documents currently available in our guidance library. The documents have been divided into key areas, including Standards Committee Functions, The Code of Conduct, Newsletters and Welsh Police Authorities, to enable users to download the guidance most relevant to their needs. To access these downloads please visit <http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/CodeGuidance/>

We also have a number of hard copy guidance and DVD products which are available upon request. However, these are available on a first-come, first-served basis only as stocks are limited and we are unable to order new stock.

Please note, the Department for Communities and Local Government (DCLG) have yet to confirm when the other standards elements of the Localism Act 2011, such as the removal of powers from existing local standards committees, requirement to adopt a local Code and to appoint an independent member, will come into force. Any questions about current and future standards arrangements should therefore be referred to the Local Government Standards team in the Conduct and Council Constitutions Division at DCLG. They can be contacted via the DCLG switchboard on 0303 444 0000.

However, should you have any questions prior to 31 January about the abolition of Standards for England or the availability of guidance on the existing framework, please do not hesitate to contact us, either via the 'Enquiries Helpline' on 0845 078 8181 or by email on enquiries@standardsforengland.gov.uk

Yours sincerely

Tim Leslie
Interim Chief Executive

STANDARDS COMMITTEE

AGENDA

Tuesday 21st February 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 4 th January 2012.	3 to 6
5.	Standards Committee Work Plan	7 to 9
6.	Complaints to the Standards Board.	10
7.	Constitutional changes to arrangements for Scrutiny Committees and revised Scrutiny Procedure Rules.	11 to 19
8.	Information via email received from the Standards Board.	20 to 21

Sherwood Lodge
Bolsover
Derbyshire
S44 6NF

Date: 16th February 2012

Dear Sir or Madam

STANDARDS COMMITTEE – TUESDAY 21ST FEBRUARY 2012

I refer to your recently circulated agenda for the above meeting and now enclose and additional item of business;

Part One - Open Items

Localism Act Update – pages 23 to 31
Recommendation on Page 27.

Yours faithfully



Chief Executive Officer

To: Chairman & Members of the Standards Committee



Committee:	Standards Committee	Agenda Item No.:	9.
Date:	21 st February 2012	Category	
Subject:	Localism Act Update	Status	Open
Report by:	Monitoring Officer		
Other Officers involved:	Deputy Monitoring Officer		
Director	N/A		
Relevant Portfolio Holder	N/A		

RELEVANT CORPORATE AIMS

STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation.

The Council's Standards Committee plays a vital role in promoting and maintaining the highest standard of conduct by Councillors of Bolsover District Council and the parishes in its areas.

TARGETS

None

VALUE FOR MONEY

Not applicable

THE REPORT

Localism Act 2011 – Update

There has been little by way of developments since the last meeting. The regulations have not yet been issued, so we know little more about how the system will operate.

In response, the Monitoring Officers within Derbyshire have formed a working group to progress matters jointly. The intention is to align codes, investigation and hearing procedures and procedures for appointing Independent Persons as much as is reasonable to avoid duplication of work and effort.

There follows a few points on some of the issues.

Selection of Independent Persons

ACSES (the Association of Council Secretaries and Solicitors) has obtained a QC's opinion on whether the current co-optees are excluded from applying to

be the new Independent Persons under the new system. The QC has confirmed that it is not possible under the legislation for co-optees to apply to be Independent Persons in the Council where they have been co-optees under the previous system. There is nothing to stop them applying in other Councils.

Councils are required to have at least 2 Independent Persons. It is something this Council will have to consider as to whether there should in fact 3 people appointed to avoid conflicts, unavailability etc.

Independent Persons won't be members of the Standards Committee although it is open to debate whether they will take part in the proceedings of the Committee. They are therefore unlike current co-optees who are a key part of the current Committee and who gain experience through sitting on the Committee.

It will be possible to pay them an allowance, though as they are not members of the Committee this will not be a members allowance and will be outside the members allowances scheme.

Standards Committees

It will no longer be a requirement to have such a Committee. Currently this Authority has given a commitment to having a Standards Committee until the next Annual Meeting of the Council. The existing system including Standards Committees continues until July this year.

Amongst those Derbyshire Councils represented at the meeting, the majority thought that their Councils would be keeping their Standards Committees rather than combining them with their Audit Committees. The move to a joint Committee for Audit and Standards is a common one. There was still a general feeling that a separate Standards Committee was needed – particularly as Councils will still have to deal with Parish Council complaints. It seems to be larger Councils without Parish Council responsibility where the joint approach is taken.

Under the new system the Standards Committee can (in addition to the Independent Person) include co-optees on Standards Committee but only as non voting co-optees. The new Standards Committee will be politically balanced. It will not require a Parish Council representative.

A briefing note will be presented to the next Parish Council liaison meeting to be taken back and explained to individual Parish Councils.

Code of Conduct

There was a lot of speculation about this with many feeling that a lot of Councils will keep an amended version of the existing code as members are both familiar with and comfortable with most of it. Generally people were unhappy about the bullying provisions not being taken out. It was suggested

that many Councils would in fact keep these provisions from the old code and reproduce them in the new code.

ACSES produced a draft code before the Localism Act was passed. As far as I'm aware this has not been updated.

The LGA is currently putting together a draft code.

There was a general feeling that it would be good to have substantially the same code in all the Councils in Derbyshire. This would allow both for simplicity when MOs are helping each other out in relation to complaints investigations and for each Council to add their own elements where they think it necessary.

It must be remembered that Parish Councils will be able to chose whether or not to adopt the District's adopted code for themselves. A degree of uniformity amongst the Principle Councils will not mean that there will be uniformity with the Parish Councils. However I hope that NALC will be assisting here.

There will be no requirement on Councillors to say that they will abide by the code.

Investigation and Hearing Procedures

The Act requires Councils to have arrangements in place for dealing with complaints, investigations and hearings. It is left to Councils as to what these procedures will be. It was agreed at the meeting that these would be very much simpler and less bureaucratic than the current version!

It will be based on the rules of Natural Justice and should be familiar to anyone involved in Court proceedings or Licensing hearings. As with other elements we await more guidance. However it is clear at this stage, that assessment is likely to be carried out by the Monitoring Officer.

In terms of sanctions, the position will be the same as it was before the Local Government Act 2000. There will be power to censure or embarrass the member or remove then from Committee (but subject to the Political Groups Rules and Political Balance). There will be no power to suspend or disqualify. The more serious breach of failing to register a Disclosable Pecuniary Interest will be a matter for the Police and potentially for prosecution. However this will only be the most serious of offences.

There is a general fear that the considerable progress which has been made over the last 12 years in relation to members, their interests and the code of conduct will be lost fairly rapidly without the teeth of sanctions behind the system. The counter to this is that bad publicity about a breach is serious enough!

Disclosable Pecuniary Interests

This is the new term.

As with other parts of the Act, Regulations are awaited. However some things are known. The requirement to register will include both disclosable pecuniary and non pecuniary interests of the councillor and his/her partner **or spouse**. The Monitoring Officer will be required to keep the Register and, as now, to keep the Registers for the Parish Councils. These will be on the web. There will be no requirement for the member to declare a disclosable pecuniary interest in a matter if this is clearly stated on his Register entry and if he intends not to speak – unless of course the Council's Standing Orders require him or her to leave the Chamber. In some authorities therefore, a Councillor with a disclosable pecuniary interest in a matter could stay in the Chamber throughout the discussion of a matter.

It will be for Councils to include some provisions in their Standing Orders. The Act requires registration and disclosure at a meeting of the interest if it's not already registered. It does not require the Councillor to leave the Chamber and it has been suggested that this must therefore be added to the Council's Standing orders. I consider this a considerable weakness in the system.

The right to speak as a member of the public where the Councillor has a prejudicial interest will also go. This generally affects Planning Committee. Under the current system, Such a Councillor can object or speak on behalf of planning applications as can the public in spite of having a prejudicial interest. This ability will disappear. The Councillor will no longer be able to speak in such circumstances as the Councillor will have a disclosable pecuniary interest debarring him or her from speaking as well as voting.

In contrast, it is thought at the moment that the following situation will change. It often arises in Executive that a member has been nominated to a position of control in a voluntary body by the Council and that the financial affairs of that body are being considered by the Executive. Under the current system the Councillor must declare a personal and prejudicial interest in the matter and leave the Chamber. It is thought that this will not be the case under the new system.

Training

Clearly Councillors will need training when the new system is in place in July. At the moment the thought is that we will do small sessions as previously and 121s with Councillors where necessary. There is also the option of doing something after the Annual Meeting in May, though this would depend on how advanced arrangements were.

It will also be necessary to consider what training to offer Parish Councils and the Independent Persons.

The next meeting of the Derbyshire Group is in March, when we are hoping to know more and to have the various guidance and Regulations available.

ISSUES FOR CONSIDERATION

As referred to in the report.

IMPLICATIONS

Financial :None

Legal :As in the report

Human Resources : None

RECOMMENDATION(S)

- 1. That the report is received.**
- 2. That the Committee consider the content of the report.**

ATTACHMENT: None

FILE REFERENCE: None

SOURCE DOCUMENT: None

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