

AGENDA ITEM 3 (c)

STANDARDS COMMITTEE

13 DECEMBER 2011

LOCALISM ACT 2011 – PRE-DETERMINATION

RICHARD G LONG,

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PURPOSE OF REPORT

1. To update members in respect of a change in the law relating to pre-determination.

RECOMMENDATION

2. That the report be noted.

BACKGROUND

3. There have been a number of court cases in recent years regarding allegations of bias or pre-determination in respect of decision makers. In respect of local government, the government has sought to clarify the rules in the new Localism Act.
4. The purpose of the original rules was to ensure that decision-makers such as Councillors, came to Council discussions e.g. planning applications, with an open mind. Some people had felt that the rules had become too restrictive and that they were stifling valid discussion and local debate.
5. The Localism Act, attempts to make it clear that Councillors can play an active part in the local discussions without the threat of legal challenge.
6. Section 25 of the Act, states that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because he previously had done anything that indicated what his view might be in relation to that matter.

7. I think that the effect of the legislation will be that in future, the courts will have to look at all the relevant facts before deciding whether there is any bias or pre-determination.

BACKGROUND PAPERS

The Localism Act 2011

AUTHOR

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