

**STANDARDS COMMITTEE**

A meeting of the Standards Committee was held on 13 March 2012.

**PRESENT:** C Nestor, (Chair)  
Councillors C Hobson, J McPartland, Mawston (substitute for Councillor Davison), Rostron and Taylor  
Independent Member: Professor B Footitt  
Parish Council Members: Councillors R Macmillan and C Morrish

**OFFICERS:** B Carr, C Davies and R G Long.

**\*\* APOLOGIES FOR ABSENCE** were submitted on behalf of Councillor Davison, Hudson, Hussain and Ms J Kidd.

**\*\*DECLARATIONS OF INTEREST**

There were no declarations of interest at this point of the meeting.

**\*\* MINUTES**

The minutes of the meeting of the Standards Committee held on 13 December 2011 were taken as read and approved as a correct record.

**STANDARDS REGIME UPDATE**

The Director of Legal and Democratic Services presented a report to update Members with regard to the impending changes in the standards regime as a result of the introduction of the Localism Act 2011 and to seek the view of Members on the draft new Code of Conduct.

Members were advised that the Localism Act abolished both the Standards for England and the current Code of Conduct, however the Act required the Council to establish a local Code of Conduct based on the seven principles of public life, as set out by the Committee on Standards in Public Life.

The Localism Act also introduced a new requirement in terms of declarations of interest. The Act required Members to declare 'pecuniary interests' and 'interests other than pecuniary interests' (with a section on sensitive interests) rather than personal interests and prejudicial interests. The Act also specified that the failure to declare a pecuniary interest, or the provision of false or misleading information would be a criminal offence which could lead to a fine of up to £5000 and disqualification from holding office with the Council for up to five years.

The Director of Legal & Democratic Services outlined the current arrangements in terms of the Council's Code of Conduct, rules in respect of declarations of interest and the operation of the Standards Committee and Standards Sub Committees, (all of which were chaired by an independent, non-elected member). It was highlighted that the current arrangements were due to cease on 1 July 2012 when the new arrangements were expected to come into force.

It was confirmed that the Standards for England was due to be abolished on 31 March 2012, however any cases which were outstanding would be transferred back to the Council to deal with under the new procedures.

Members were advised that the Localism Act required the Council to produce a new Code of Conduct for Members and co-opted members, which would promote and maintain high standards of conduct. Members would still be required to disclose pecuniary interests within 28 days of taking office, re-election, or the interest becoming relevant to a meeting they were attending and the Council would still be required to maintain a Register of Interests. The Director of Legal & Democratic Services advised that it was likely that Members of Middlesbrough Council would however be required to complete a Register of Interests form on a yearly basis.

It was anticipated that the Secretary of State would produce regulations in respect of the definition of a 'disclosable pecuniary interest' and set out what sanctions if any, would be available to local authorities over and above those sanctions currently available under common law.

Members were advised that the Council would need to put in place arrangements to deal with investigations into allegations of breaches of the Code of Conduct and this would necessitate the appointment of an Independent Person. The Act specified that the Independent Person could not be a person who has been a Member, co-opted member or officer of the Council within the past five years. The Council therefore needed to advertise for, and appoint an Independent Person before the July deadline.

The Director of Legal & Democratic Services suggested that it would be prudent for the authority to appoint two Independent Persons in case there was a conflict of interest. The Chair suggested that the authority consider placing a joint advertisement in respect of the appointment with the other Tees Valley authorities.

In terms of the sanctions that would be available under the new code, the Council would only be able to rely on those sanctions available through Common Law. The failure to declare a pecuniary interest, or the provision of false or misleading information would be a criminal offence and that would be dealt with via the Courts rather than the Council.

The Association of County Secretaries and Solicitors (ACSeS) had sought advice from Clive Sheldon QC on what sanctions Councils could impose following a breach of the Code of Conduct. The advice from the QC had indicated the following list of sanctions could be imposed:-

- a) The Council (or a Committee of the Council) may issue a formal letter to a Member found to have breached the new Code of Conduct;
- b) The Council (or a Committee of the Council) may formally censure the Member, through a motion;
- c) The Council may remove the Member from a Committee (although the final decision on the appointment of a replacement to that Committee is the responsibility of the relevant political group): or
- d) The Council (or a Committee of the Council) may require that publicity be given to a decision that a Member has breached the Code of Conduct.

It was highlighted that the requirements in respect of Predetermination or Bias had changed considerably however the authority had little discretion as the requirements were prescribed in the Act.

Members were advised that the ACSeS had produced a 'model' Code of Conduct which was attached for information at Appendix 1 to the report. It was highlighted that the requirement that Members sign up to the Code of Conduct had been removed under the Localism Act and as a consequence Members would not be legally obliged to comply with the Code (subject to the provisions on the declarations of pecuniary interests).

Members considered the draft Code of Conduct and recommended the following amendments:-

#### The Principles of Public Life

Delete principles (viii), (ix) and (x)

#### General Obligations

Delete obligation 1.1

#### Interests

Recommendation No. 5 be amended to specify "There will be a requirement for Members to formally declare or register any gifts and hospitality in excess of £25". The remainder of the recommendation to reflect the requirements contained in the draft Code of Conduct.

Disclosure and Participation

Recommendation 7 to be redrafted to be more comprehensive and precise.

It was suggested that the Parish Council's adopt a new Code of Conduct to reflect the revised Members Code of Conduct.

**ORDERED** as follows:-

1. That the content of the report be noted;
2. That subject to the above amendments, the draft Code of Conduct be referred to the Council's Constitution Committee and the Council for determination;
3. That the Director of Legal & Democratic Services consider placing a joint advertisement with the other Tees Valley authorities for the appointment of two Independent Persons in accordance with the Localism Act.