

# ***Report to the Standards Committee***

***Date of meeting: 2 February 2012***

**Report of: Deputy Monitoring Officer**

**Subject: Localism Act 2011 – New Standards Regime**

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## **Recommendations:**

### **Standards Committee**

- (1) That the Monitoring Officer be appointed as Proper Officer for the purposes of Sections 26-37 of the Localism Act 2011 with the Deputy Monitoring Officer authorised to act in the Monitoring Officer's absence.**
- (2) To consider whether the Council should appoint a Standards Committee and to determine the following matters:-**
  - (a) the number of members to form the Committee;**
  - (b) the number of executive Councillors to be appointed by the Leader of the Council;**
  - (c) the preferred arrangements for Parish Councils to be involved in the work of the Committee; and**
  - (d) the number of Parish Councillors to be appointed;**
- (3) To consider whether, as an alternative to (1), a Joint Standards Committee for the District Council and Parish and Town Councils should be established.**
- (4) To consider consulting Parish Councils on their future involvement in the Standards Committee and related matters;**

### **Code of Conduct**

- (5) To consider whether, once Government regulations concerning the definition of Disclosable Personal Interests (DPIs) and other interests are in force, the Monitoring Officer should bring forward a draft Code of Conduct for consideration by the Council comprising:**
  - (a) those elements of the existing Code which remain relevant;**
  - (b) definition of all interests to be included; and**

- (c) provisions relating to registration and disclosure of interests; and.
- (6) To consider the latest drafts produced by the Public Law Partnership of key documentation.

### **Complaints**

- (7) That the Monitoring Officer be given delegated authority:
  - (a) to determine whether a complaint merits formal investigation after consultation with the Independent Person;
  - (b) to arrange any such investigation;
  - (c) to seek resolution of complaints without formal investigation wherever practicable;
  - (d) to submit regular reports to the Standards Committee on the exercise of this delegated authority under (a) – (c) above;
  - (e) to refer decisions on whether to investigate any complaint to the Standards Committee if it is the view of the Monitoring Officer that this is the appropriate course of action;
  - (f) to close any complaint where an investigation finds no breach of the Code of Conduct, subject to the report and findings from the investigation being provided to the subject Councillor, the Independent Person and to the Standards Committee;
  - (g) to seek local resolution of any complaint where an investigation finds evidence of a failure to comply, subject to the following:
    - (i) consultation with the Independent Person and the complainant;
    - (ii) a summary report being made to the Standards Committee;
  - (h) to refer any investigation report where local resolution is not possible to a Hearings Sub Committee of the Standards Committee for consideration;
- (7) That the Council delegates authority to Hearings Sub Committees to take action on complaints where Councillors have been found not to have complied with the Code of Conduct including any or all of those possible actions listed in paragraph 5.7 of this report.
- (8) To consider consulting Leaders of the Political Groups of the District Council and representatives of Parish Councils on these arrangements.

### **The Independent Person**

- (9) To consider the following matters:
  - (a) how many “Independent Persons” should be appointed;

- (b) any allowances to be payable and how these are to be determined;
- (c) advertising arrangements;
- (d) appointment arrangements.

#### **Register of Members Interests**

- (10) That the Monitoring Officer be given delegated authority to prepare, maintain and publish registers for the District Council and all Parish Councils, to make arrangements for them to be available for public inspection and to provide information to Parish Councils for their register to be published on their website where they exist.

- (11) That a new Rule (to be numbered 3) be added to the Council Procedure Rules as follows:

**“Any member of the Council who has registered a disclosable pecuniary interest or has a pending notification of such interest in any items of business to be considered by the Authority must withdraw from the Council Chamber (or other meeting room), including the public gallery during the whole consideration of that item except if he or she is permitted to remain as a result of a dispensation.**

**Such requirements shall also apply to any Cabinet members with a disclosable pecuniary interest (including a pending notification) who are debarred from determining any matter which they would otherwise have dealt with as a portfolio holder under delegated authority.**

**Where a Member of the Council has not registered such an interest or does not have a pending notification, they shall declare the existence and nature of that interest and withdraw from the meeting during discussion of any relevant item of business.”**

- (12) That Council Procedure Rule 25.1 (Application to the Executive, Committees and Sub Committees) be amended to apply the new Council Procedure Rule (3) to all meetings.

- (13) To consider whether responsibility for granting dispensations be delegated to the Monitoring Officer or to the Standards Committee by reference to the statutory categories set out in paragraph 11.3 of this report, namely:

**Quorum**

**Political Balance**

**Interests of People Living in the Area**

**Cabinet Quorum**

**Otherwise appropriate;**

#### **Wider Liaison**

- (14) To authorise the Monitoring Officer to participate with the Eastern Region

**Public Legal Partnership to develop initiatives across partner authorities where these will be helpful in providing a consistent approach to the new standards regime between Councils.**

**Report:**

**1. THE LOCALISM ACT 2011**

- 1.1 The Localism Act 2011 makes changes to the regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes will be 1 July 2012.
- 1.2 From 31 January 2012, Standards for England will cease to operate its regulatory functions and will be abolished no later than 31 March 2017. Current Standards Committees and other aspects of the current regime will be abolished from 1 July 2012.
- 1.3 This report describes the changes and recommends the actions required for the Council to implement the new regime.

**2. DUTY TO PROMOTE AND MAINTAIN HIGH STANDARDS OF CONDUCT**

- 2.1 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

**3. STANDARDS COMMITTEE**

- 3.1 The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So there will be no requirement for a Standards Committee. However, the Council must decide whether there will still be a need to deal with standards issues and case-work through a discretionary Local Standards Committee. In future, such a Standards Committee will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –
  - (a) the composition of the Committee will be governed by proportionality, unless a Council votes otherwise with no member voting against;
  - (b) the present restriction to one member of the Executive on the Standards Committee will cease to apply;
  - (c) the current co-opted independent members will cease to hold office and cannot serve again as Independent Persons for 5 years;
  - (d) a new category of Independent Person (see below) is created who must be consulted at various stages;
  - (e) the new Independent Person may be invited to attend meetings of the Standards Committee but cannot be co-opted onto the Committee.
- 3.3 The District Council will continue to have responsibility for dealing with standards complaints against elected and co-opted members of Parish Councils, but the current Parish Council representatives also cease to hold office. The District Council can choose whether to involve Parish Council representatives and, if so, how many Parish Council representatives there should be. The choice is between:

(a) establishing a Standards Committee as a Committee of the District Council, with co-opted but non-voting Parish Council representatives (who could then make recommendations in respect of Parish Council members); or

(b) establishing a Standards Committee as a Joint Committee with some or all Parish Councils which would have a set number of Parish Council representatives as voting members on the Committee (thus being able to take decisions in respect of Parish Council members but subject to Parish Councils having delegated such powers to the Joint Committee).

3.4 Terms of reference proposed by the Public Law Partnership (latest draft) is attached as Appendix 1.

#### **4. THE CODE OF CONDUCT**

4.1 The current ten General Principles of Ethical Behaviour in Public Office and Model Code of Conduct are repealed and members will no longer have to give an undertaking to comply with the Code of Conduct.

4.2 The Council must adopt a new Code of Conduct governing elected and co-opted members when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

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

4.3 The Council has discretion as to what is included in its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

4.4 The result is that it is not yet possible to draft Code provisions which reflect the definition of DPIs. It is possible to give an indicative view of what the Council might include in a Code in respect of all interests, namely DPIs plus other pecuniary and non-pecuniary interests. It is suggested that the Monitoring Officer prepare a draft Code which requires registration and disclosure for those interests which are currently called personal and/or prejudicial interests, but only to require withdrawal as required by the Act for DPIs.

4.5 The Act prohibits members with a DPI from participating in local authority business, and the Council can adopt a separate Standing Order requiring members to withdraw from the meeting room. Members of the Cabinet who might otherwise be able to make a decision as a single Portfolio Holder under delegated authority will be similarly prevented from doing so by any DPI.

4.6 A Council's new Code of Conduct would cover the following matters –

(a) general conduct rules, to give effect to the seven principles – probably re-adoption Paragraphs 3 to 7 of the existing Code would suffice; and

(b) rules regarding registration and disclosure of interests other than DPs which would replace the current personal interests provisions which the Act requires to be included.

- 4.7 The detailed wording of Code provisions must await the publication of Government regulations. Work is being undertaken within the Public Law Partnership in the Eastern Region to draft a Code which can be adopted so as to provide consistency among all Councils. The latest draft is set out in Appendix 2.

## **5. DEALING WITH COMPLAINTS ABOUT COUNCILLORS' MISCONDUCT**

- 5.1 The Act requires that the Council adopt "arrangements" for dealing with complaints of breaches of Code of Conduct both by District Council and Parish Council members. Such complaints can only be dealt with in accordance with the "arrangements" which are put in place. These must set out the process for dealing with complaints and the actions which may be taken against a member who is found not to have complied with the relevant Code of Conduct.

- 5.2 The Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own processes, including delegation of decision making. The statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints. It is now necessary for Council to delegate appropriate powers to the Standards Committee or to the Monitoring officer to deal with complaints. The various processes are discussed in succeeding paragraphs.

### **Decision whether to investigate a complaint**

- 5.3 In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and "tit-for-tat" complaints. It is possible to delegate to the Monitoring Officer the initial decision as to whether a complaint requires investigation. This could be on the basis of the present guidance subject to:

(a) consultation with the Independent Person; and

(b) reference of any complaint to the Standards Committee where it is felt that it would be inappropriate to take a decision (for example where the Monitoring Officer has previously advised the member on the matter or the complaint is particularly sensitive).

- 5.4 Such arrangements would allow the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it would be appropriate for a quarterly report to Standards Committee to be made, which would draw to the Committee's attention:

(a) areas where training or other action might avoid further complaints; and

(b) progress on investigations and costs incurred.

### **"No Breach of Code" Finding on Investigation**

- 5.5 Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, this is currently reported to Referrals Sub-Committee which can decide to take no further action. This decision could be delegated to the Monitoring Officer, but might be accompanied by an ability to refer a matter to Standards Committee if appropriate. Copies of all investigation reports could be provided to the Independent Person so as to allow the latter to gain an overview of current issues. The Monitoring Officer could also provide a summary of each investigation to the Standards Committee for information purposes.

#### **“Breach of Code” Finding on Investigation**

- 5.6 Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there might be an opportunity for local resolution, avoiding the necessity of a local hearing. Sometimes the investigation report can identify appropriate remedial action with which the complainant may be satisfied. It is suggested that in these circumstances it would be appropriate for the Monitoring Officer to agree a local resolution but only after consultation with the Independent Person and where the complainant is satisfied with the outcome. The outcome could be included in the summary report to the Standards Committee mentioned above.
- 5.7 In all other cases in this category, it would be necessary for the Standards Committee (in practice a Hearings Sub-Committee) to meet so as to consider the case and allow the subject member to respond to the investigation report. The Hearing Sub Committee could then determine whether there was a failure to comply with the Code of Conduct and action, if any, which is appropriate as a result.

#### **Action in Response to a Finding of a Failure to Comply with Code**

- 5.8 The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension, training or an apology. Where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited and must be directed to the authority continuing to carry out its functions rather than “punishing” the member concerned.
- 5.9 In practice, this might include the following –
- (a) reporting its findings to Council (or to the Parish Council) for information;
  - (b) recommending to the member’s Group Leader (or in the case of non-affiliated members, to Council) that the member should be removed from any or all Committees or Sub-Committees of the Council;
  - (c) recommending to the Leader of the Council that the member be removed from the Cabinet or from particular Portfolio responsibilities;
  - (d) asking the Monitoring Officer (or recommending to a Parish Council) to arrange training for the member;
  - (e) removing (or recommending to a Parish Council) that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
  - (f) withdrawing (or recommending to the Parish Council that it withdraws) facilities provided to the member by the Council, such as computers, and/or email and internet

access; or

(g) excluding (or recommending that the Parish Council to exclude) the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

5.10 Lengthy legal advice has been obtained through the Public Law Partnership as to the exact nature of any sanctions which can be applied to any breaches of the code. In summary, the sanctions which could be available are those which do not interfere with the electoral process or members' civil rights viz:

(a) formal letter – yes;

(b) formal censure through a motion (at Council) – yes;

(c) removal of member from Committees – in principle this could be decision which could be made by a Council but in practice may be one for a political group where pro rata membership arrangements operate;

(d) press release/publicity – yes;

(e) withdrawal of allowances – unlikely to be lawful but this is a clearly balanced legal view;

(f) withholding of confidential information – dubious as a sanction as elected members have existing statutory access to information rights.

5.11 Use of these possible remedies will depend on the nature of breach of the Code concerned.

5.12 There is a particular difficulty in respect of Parish Councils, as the Localism Act 2011 does not give the Standards Committee power to do anything other than make a recommendation to the Parish Council. Parish Councils will be under no obligation to accept any such recommendation. However, if the Standards Committee and Hearings Sub-Committees were constituted as Joint Committees/Sub-Committees with delegated powers from Parish Councils, they would be able to take decisions on behalf of the Parish Council concerned.

5.13 Appendices 3 and 4 set out the latest PDP draft complaints procedure and flowchart. Appendices 5 and 6 set out a draft complaints form and hearing procedure.

## **Appeals**

5.14 There is no requirement to put in place any appeals mechanism against decisions on complaints. A decision would be open to judicial review by the High Court if it was unreasonable, improperly taken, or involved a penalty which could not be imposed.

## **6. INDEPENDENT PERSON(S)**

6.1 The "arrangements" for dealing with complaints must include provision for the appointment by Council of at least one Independent Person.

6.2 The Independent Person must be appointed via public advertisement, a defined application procedure and by a positive vote of a majority of all members of the District Council (not just of those present and voting).



- 6.3 Under the Act, a person is considered not to be “independent” if he or she:
- (a) is, or has been within the last 5 years, an elected or co-opted member or an officer of the District Council or of any of the Parish Councils within its area; or
  - (b) is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish Councils within its area (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or
  - (c) is a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.
- 6.4 In relation to paragraph 6.3 (b), Leading Counsel’s opinion has been taken on whether existing any independent members could serve as the “independent person”. The opinion confirms the view set out in that paragraph.
- 6.5 For this purpose, “relative” comprises –
- (a) the candidate’s spouse or civil partner;
  - (b) any person with whom the candidate is living as if they are spouses or civil partners;
  - (c) the candidate’s grandparent;
  - (d) any person who is a lineal descendant of the candidate’s grandparent;
  - (e) a parent, brother, sister or child of anyone in Paragraphs (a) to (b);
  - (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e) or
  - (g) any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

### **Functions of the Independent Person**

- 6.6 The Independent Person:
- (a) must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member;
  - (b) may be consulted by the authority in respect of a standards complaint at any other stage; and
  - (c) may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.
- 6.7 Item 6.5(c) may cause a conflict of interest if the Independent Person has been consulted by the subject member and is then to be involved in the determination of that complaint.

### **How many Independent Persons?**

- 6.8 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. A second independent person would allow

the situation outlined in paragraph 6.7 above to be dealt with but if both are to be consulted, there would appear to be little advantage in appointing more than one Independent Person. A practical answer might be to appoint reserve candidates who can be brought in at short notice, without the need for re-advertisement if the Independent Person is no longer able to act.

## **Remuneration**

- 6.9 As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme or members' allowances. Any remuneration could therefore be determined by the Council without reference to the Independent Remuneration Panel.
- 6.10 In comparison with the current Chairman of Standards Committee, the role of Independent Person may be less onerous. He or she is likely to be invited to attend all meetings of the Standards Committee and Hearings Sub-Committee, but not to be a formal member of either. He or she could be co-opted as a non-voting member but could not chair meetings in view of the possible need for a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance could be offered.
- 6.11 Where the Independent Person has been consulted, he/she could not be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations.
- 6.12 However, it would be appropriate to undertake a proper review of the function before setting the remuneration. Although remuneration is outside the official remit of the Remuneration Panel, the Council could decide to obtain their views on the question by resolution.

## **7. THE REGISTER OF MEMBERS' INTERESTS**

- 7.1 The Localism Act abolishes personal and prejudicial interests. Instead, regulations will define DPIs. The Monitoring Officer is required to maintain a register of those interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for all Parish Councils, which also have to be open for inspection at the District Council offices and website. There are currently 24 Parish Councils comprising upwards of 200 Parish Councillors. The responsibility for registration of interest and public deposit of that information has therefore effectively transferred to the District Council. There is no provision for the District Council to recover any costs from Parish Councils.
- 7.2 DPIs are likely to be broadly equivalent to the current prejudicial interests. The intention is to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.
- 7.3 The Act also requires a Council's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.
- 7.4 The Monitoring Officer is required by the Act to establish and maintain registers of interest for each Parish Council. Where the Parish Council has a website, the

Monitoring Officer must provide the Parish Council with the information required to enable the Parish Councils to publish on their own website.

7.5 Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting. A Court could apply criminal sanctions such as fines or disqualify for a period not exceeding 5 years. If the Code of Conduct requires registration of other interests, failure to do so would be a breach of that Code.

7.6 The preparation and operation of the register, not just for this authority but also for each Parish Council, is likely to be a considerable administrative task, especially where different Parish Councils adopt different Code requirements for registration and disclosure of interests other than DPIs.

## **8. DISCLOSURE OF INTERESTS AND WITHDRAWAL FROM MEETINGS**

8.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member intends to be absent from the part of the meeting where the matter in question is under consideration.

8.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a "pending notification"). Thus, members of the public attending the meeting will in future need to read the register of members' interests, as these will no longer be disclosed at meetings.

8.3 Where the member does make a disclosure of an unregistered DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.

8.4 If a member has a DPI in any matter, he/she must not participate in any discussion of the matter at the meeting. The Act does not define "discussion", but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct. They must also not participate in any vote on the matter unless he/she has obtained a dispensation allowing him/her to speak and/or vote. Failure to comply with these requirements becomes a criminal offence.

8.5 The Council's Code of Conduct must make "appropriate" provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of Code of Conduct but not a criminal offence.

8.6 The requirement to withdraw from the meeting room can be covered by Standing Orders, and can apply to Council, Committees and Sub-Committees, can apply also to Cabinet and Cabinet Committee meetings, so that failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the member.

## **9. DISCLOSURE AND WITHDRAWAL BY MATTERS TO BE DETERMINED BY A SINGLE MEMBER**

9.1 Matters can be decided by a single member acting alone where the member is a

Cabinet Member acting under Portfolio powers, or where the member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors. (The latter situation does not apply to the District Council but may have implications for Parish Councils).

9.2 The Act provides that when a member becomes aware that they will have to deal with a matter in which there is a DPI, as follows:

(a) unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", they have 28 days to notify the Monitoring Officer and

(b) they must take no action in respect of that matter other than to refer it another person or body to take the decision.

9.3 The Standing Order mentioned in Section 8 can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter subsequently.

## **10. SENSITIVE INTERESTS**

The Act effectively re-enacts the existing Code of Conduct provisions on registration and disclosure of sensitive interests.

## **11. DISPENSATIONS**

11.1 The provisions on dispensations are significantly changed by the Localism Act.

11.2 At present, a member who has a prejudicial interest may apply to a Standards Committee for a dispensation on two grounds:

(a) that at least half of the members of a decision-making body have prejudicial interests; and

(b) that so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.

11.3 In future, a dispensation can be granted in the following circumstances:

(a) when so many members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business", ie that in practice the decision-making body would be inquorate;

(b) when, without the dispensation, the representation of different political groups on the body transacting the business would be affected such that the outcome of any vote on the matter would be influenced. (This assumes that members are predetermined to vote on party lines on the matter, in which case a dispensation to enable them to participate could be inappropriate);

(c) when the dispensation is in the interests of persons living in the local authority's area;

(d) when, without a dispensation, no member of the Cabinet would be able to participate (the assumption being that, where the Cabinet would be inquorate as a result, the matter might then be dealt with by an individual Cabinet member); and

(e) that the authority considers that it is otherwise appropriate to grant a dispensation.

11.4 Any grant of a dispensation must specify how long it will be in place, up to a maximum of 4 years.

11.5 The Local Government Act 2000 required that dispensations be granted by the Standards Committee. The new Act allows this to be delegated to the Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds (a) and (d) of paragraph 11.3 could be delegated to the Monitoring Officer, with a right of appeal to the Standards Committee as these seem to be grounds based on facts rather than judgements.. Grounds (b), (c) and (e) may be appropriate for the Standards Committee, after consultation with the Independent Person, these three grounds being less clear cut and more related to a judgement of the situation and the public interest.

## **12. TRANSITIONAL ARRANGEMENTS**

12.1 Regulations under the Act will provide for:

- (a) transfer of Standards for England cases to local authorities following the abolition of Standards of England (31.1.2012);
- (b) a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- (c) removal of the power of suspension from the start of the transitional period (1.7.2012 at the latest); and
- (d) removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

## **13. COLLABORATIVE WORKING – EASTERN REGIONAL PUBLIC LAW PARTNERSHIP (PLP)**

13.1 Many of the discretionary features of the new standards arrangements are thought likely to benefit from a consistent approach across local authorities such as the Code of Conduct, complaints procedures, independent persons. Public Law Partnership members are undertaking work to prepare common arrangements with a view to relevant Councils formally adopting these models. It is recommended that the Monitoring Officer should be authorised to participate in these discussions and to bring forward joint proposals for consideration by the Council where these will benefit the arrangements.

13.2 It is considered very important to the credibility of the standards arrangements that they are operated on a consistent basis in different local authority areas.

13.3 The latest draft of documents being developed by the Public Law Partnership are attached as follows:

- (a) Terms of Reference of Standards Committee (Appendix 1);

- (b) Code of Conduct (Appendix 2);
- (c) Complaints Procedure (Appendix 3);
- (d) Complaints Procedure – Flow Chart (Appendix 4);
- (e) Standards Committee – Hearing Procedure (Appendix 5); and
- (f) Complaint Form (Appendix 6).

#### **14. BUDGET**

- 14.1 The Council's draft operational budget for 2012/13 is £6000 (CSB) representing a reduction from £12490 in the current year. A working fund for training and administrative tasks such as compiling the register of member interests is considered necessary for the future. Under the previous regime, funding for external complaint investigations was necessary to deal with situations where in house staff could not be involved. In future, it appears that reciprocal arrangements within Essex between Monitoring Officers will be the norm. These will probably be charged at an hourly rate of £75.
- 14.2 The budgetary requirements will need to be monitored in the future.