

TEIGNBRIDGE DISTRICT COUNCIL

COUNCIL

CHAIRMAN: Cllr Christopher Clarence

DATE: 29 June 2012

REPORT OF: Monitoring Officer and Portfolio Holder for Corporate Services

SUBJECT: THE NEW STANDARDS REGIME

PART I

RECOMMENDATION

The Council is requested to

- A) consider the attached report and the recommendations of the Council's Standard Committee which met on 19 June 2012 regarding the need to introduce a new Standards regime, with effect from 1 July 2012, under the provisions of the Localism Act 2011, and
- B) Make decisions on the items detailed in section 3 of the report.

1. PURPOSE

The purpose of this report is to inform Members of the new Standards provisions introduced by the Localism Act 2011 and inform Councillors of the options it has regarding the adoption of a new Code of Conduct and Register of Interest.

2. BACKGROUND

Members will recall that the Localism Act abolished the Standards Board for England and has brought about significant changes to the Code of Conduct regime with effect from 1 July 2012. There is no longer a legislative requirement to establish a statutory Standards Committee. There is opportunity to retain a separate Standards Committee if Council wishes or business can be given to another existing committee.

There is no requirement to have parish council representatives and independent members.

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The framework for dealing with the Code of Conduct complaints and sanctions has also been repealed.

Council can retain co-opted members on the Committee, representing parish council interests and co-opt independent persons to the Committee but does not have to. They cannot have voting rights.

The independent person is a new provision introduced by the Localism Act 2011 and will be available for consultation by the Monitoring Officer, the members about whom a complaint is made and the complainant. They do not have to serve on any committee.

The Act introduces a new general duty to promote and maintain high standards of conduct in Council and co-opted members who have voting rights. The Act provides a limited mechanism by which authorities can enforce high standards of conduct with potential criminal conduct or breaches of regulations being investigated and enforced by the Police.

The Council must adopt a new Code with effect from 1 July 2012. Templates and suggested Codes have been produced by the Local Government Association, the Department of Communities and Local Government, the National Association of Local Councils (NALC), and a Devon-wide Code which has been developed by Monitoring Officers from authorities across Devon. Copies of these Codes are attached in Appendices to the Standards Committee Agenda which is attached at pages 36 to 56.

The Standards Committee has met, the report for which is located at pages 20 to 27. The minutes and recommendations it has made are set out at pages 14 to 19.

The Standards Committee recommendations will help the Council have the necessary provisions in place to protect members and the Council and permit further discussions on the possibilities of a Devon wide standards committee and a Devon wide code.

It is worth noting that following the Standards Committee the NALC Code which was recommended to the Council for approval by the Standards Committee has been subject to minor change.

3. DECISIONS REQUIRED OF COUNCIL

This section sets out the decisions Council needs to make in (i) to (x) and makes reference to the Standards Committees views and recommendations.

(i) Code of Conduct

The Council is required to adopt a new Code of Conduct. Copies of potential Codes are referenced earlier in this report. The Standards Committee recommend the Council adopt the National Association of Local Councils

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(NALC) Code of Conduct. It believed this code represented a light touch and would be easily understood by members and the public.

One of the issues which was considered in-depth by the Standards Committee was the desirability of any Member with a Registrable Pecuniary Interest to leave the meeting while it was discussed. The statutory provisions provide that Registrable Pecuniary Interests do not require a Member to declare the interest at the meeting or leave the meeting during the discussion of the item. The statutory requirements mean that the Member may not take part in the discussion or voting if a Registrable Pecuniary Interest arises but there is no statutory requirement for Members to leave the meeting.

The Standards Committee felt that for clarity, for favourable public perception and to avoid any unintended influence by the Member with the Disclosable Pecuniary Interest by way of body language or any other non-verbal communication, the Council's code should require a Councillor with a Disclosable Pecuniary Interest to leave the meeting as well as take no part in discussion or vote as required by statute.

The final version of the NALC code is attached at pages 8 to 13 of this report.

Is the Council happy to adopt this Code with effect from the 1 July 2012 and should the additional requirement to leave the meeting be included?

(ii) Which Committee should deal with the Standards matters?

The Council is asked if it wishes to retain a separate Standards Committee or deal with Standards matters as part of the business of a current Committee?

The Standards Committee gave extensive consideration to this question. The considerations of the Standards Committee are set out in italics below.

“Members considered whether a separate Standards Committee should be established or the Standards work should be dealt with by an existing Council committee, for example the Council's Audit Scrutiny Committee. This is likely to be an interim arrangement whilst the possibility of a Joint Committee with other authorities is explored. Whilst the Committee accepted that, with careful management, it would be possible for the Audit Scrutiny Committee to deal with Standards matters, it was felt that some councillors have a particular interest in dealing with Standards matters and skills from which a separate Standards Committee would benefit. On balance, the Committee felt that it was more appropriate to establish a separate Standards Committee of a small group of elected members. It should only meet as specifically required

The Committee was very concerned at the loss of the opportunity for parish and town council representatives and independent members to fully take part in a committee but felt strongly that Parish Councillors and the Independent Person should be co-opted to the Standards Committee. The

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Committee recognised that these members would be non-voting members of the Committee. The Committee was also mindful of the need to engage parish and town councils in the Standards framework and noted that a high proportion of complaints relating to the Code of Conduct arose from local councils.

The Committee noted that the new Standards Committee would be an ordinary committee of the Council, governed by the provisions of the Local Government Act and would be politically balanced unless a unanimous decision was taken to disapply the political balance requirements. The committee favoured a non political approach being taken to Standards matters

Recommended

That a separate Standards Committee of four elected members with two co-opted parish/town council representatives nominated by TALC and the Independent Person. The terms of reference for the Standards Committee to include all matters to deal with the Code of Conduct and the other 'non-Standards' matters which currently fall to the Standards Committee relating to overview of the constitution, corporate complaints and Ombudsman complaints."

iii Co-opted Members

The Council's decision is also requested on the Standards Committee recommendation that co-opted members be appointed to serve on the Standards Committee on a non-voting basis. The rationale and recommendations are set out in the extract of the Standards minutes above.

(iv) Joint Standards Committee with other authorities in Devon

Should the Council pursue a Devon wide Standards Committee in the medium term?

The Standards Committee felt it would be beneficial to explore the possibility of a joint Standards Committee with other Devon Districts and was keen to ensure that the right arrangements were in place for Teignbridge to deal with Standards matters in the interim. It recommended that the Council considered the options of establishing a Joint Standards Committee with one or more of the Devon authorities.

(v) Complaints Procedure

The Council is asked to adopt a complaints procedure based on the flow diagram on page 28.

The Standards Committee gave initial consideration to the procedure for dealing with Members' conduct complaints. The Committee welcomed the opportunity to try to resolve issues at an early stage without referral of the complaint to the Standards Committee or any other Committee the Council

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appointed to deal with Standard matters. The Committee recognised the merits and need for the Monitoring Officer to undertake early work to resolve issues, in consultation with an independent person “a new requirement brought about by the Localism Act as an independent ear for the Monitoring Officer and complainants and those the subject of complaints”. It recommended that the Council adopt the procedure on page 28 as the basis of the process.

(vi) Independent Person

The Council is asked if it wishes to deal with the appointment of independent persons as recommended by Standards Committee?

The Standards Committee noted there are a number of options for the appointment of an independent person to be consulted by the Monitoring Officer, the complainant, and the subject member. The Standards Committee noted that some Councils had advertised for independent persons and the Monitoring Officer had suggested it would be possible to work jointly with other authorities to use their independent persons as reserves. The Standards Committee favoured the concentration of expertise but noted that some transitional arrangements would be required until joint discussions could take place. It therefore

“Recommended

- (a) That there should be one independent person (IP) for Teignbridge District Council and that the appointment of the IPs for West Devon Borough Council and South Hams District Council as reserves IPs be considered.*
- (b) That Teignbridge District Council remunerate the IP in the sum of £500 and that this be kept under review and be adjusted, if necessary, in the first year.*
- (c) That while the new IPs are being recruited and discussions take place with neighbouring authorities, the existing independent members act as the IPs.”*

(vii) Registers of Interest

The Council is asked to consider the Register of Interest that should apply to Teignbridge Councillors. The Regulations set out a new provision “Disclosable Pecuniary Interests” which set out interests which must be registered. These are set out in Appendix A of the NALC code on page 12. There is also some local flexibility over additional interests which could be applied by the Council if it so decided.

Please see Appendix B of the NALC code on page 13.

Members are also asked to note the requirement that all Registers of Interest are published on the District Council’s website and for parish councillors on

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the parish council website if one exists. The Council is also asked to consider if it wishes to adopt the optional Local Choice Disclosable Interests as recommended by NALC and the Standards Committee (on page 13).

(viii) Delegated Powers for the Monitoring Officer

That Council delegated Powers to the Monitoring Officer to enable the early negotiation and hopefully resolution of complaints against Members, the Monitoring Officer be authorised as follows:

- To act as the Proper Officer for receipt of complaints against Members for alleged failure to abide by the Council's Code of Conduct and those of its town and parish councils;
- To arrange the appropriate publicity for the new systems outlined above and which any regulations require;
- To make appropriate changes to the Constitution to reflect the decisions taken as required by regulations;
- To make arrangements for the appointment of an Independent Person, following open competition and two reserve members from neighbouring authorities or following open competition in line with the process used for appointment of existing independent members whereby interest is sought via a public advertisement;
- To exercise his/her discretion in consultation with the Independent Person in connection with collecting any information in advance of reference to the Committee or Independent Person that will assist in their consideration of a complaint;
- To determine requests from members of the District Council for dispensations following consultation with the Chairman of the Standards Committee
- To arrange suitable publicity of decisions following investigation, except for cases where a member, about whom it was decided unfounded allegations had been made, did not want further publicity.
- To finalise the detail of the complaints process.

(ix) Adoption and signing up

That members have 28 days from the date of this meeting to sign up to complete the new register of interests.

(x) Transitional arrangements

That any complaints received and still outstanding under the pre 1 July 2012 provisions be dealt with under the new regime adopted by this meeting.

Sue Aggett
Monitoring Officer

Cllr Mike Walters
Portfolio Holder for Corporate Services

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Wards affected	All
Contact for any more information	Neil Aggett, Democratic Services Officer – 01626 215113
Background Papers (For Part I reports only)	Localism Act 2011 and Regulations made thereunder
Key Decision	N
In Forward Plan	N
In O&S Work Programme	N
Community Impact Assessment attached:	N