EAST HERTS COUNCIL

COUNCIL - 16 MAY 2012

REPORT BY THE MONITORING OFFICER

THE LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME

WARDS AFFECTED: NONE

Purpose/Summary of Report

- **To consider proposals for the implementation of the Localism Act as it relates to the new standards regime.**

RECOMMENDATIONS:

Standards Committee

(a) **Issue 1- The Standards Committee Recommendation:** To create an Advisory Committee with independent Members with voting rights operating in the same way as the current Standards Committee but advising full Council. The Members of the existing Standards Committee would be appointed to the Committee.

(b) **Alternative Recommendation:** That the Council establish a Standards Committee comprising 5 elected Members of the District Council, appointed proportionally;

(c) That the Leader of the Council be requested to nominate to the Committee only one Member who is a Member of the Executive;

Code of Conduct

(d) **Issue 2- The Standards Committee Recommendation:** The Standards Committee recommends the adoption of a code prepared by the Committee and contained in **Essential Reference Paper B**

(e) **Alternative Recommendation:** Adopt the Local Government Association's "Template code and guidance note on conduct'. (**Essential Reference Paper C**);

(f) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Leader of the Council, add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.

Arrangements for Dealing with complaints

(g) **Issue 3-The Standards Committee recommendation:** Adopt the proposals set out in **Essential Reference Paper D**

(h) **Alternative Recommendation:** Adopt the proposals set out in **Essential Reference Paper E;**

Independent Persons

(i) **Issue 4-** The Council join with other authorities with a pool of Independent Persons;

(j) That the Independent Persons be reimbursed for travel and subsistence expenses

Register of Members' Interests

(k) **Issue 5-** That the Monitoring Officer prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;

(l) That the Monitoring Officer ensure that all Members are informed of their duty to register interests;

(m) That the Monitoring Officer prepare and maintain new registers of Members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and

Standing Orders

(n) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.

(o) **Issue 6-** The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

(p) **Issue 7-** The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

Dispensations

(q) **Issue 8**- That Council delegate the power to grant dispensations –

(r) on Grounds set out in Paragraphs 11.2 (a) and 11.2 (d) of this report to the Monitoring Officer with an appeal to Standards Committee, and;

(s) on Grounds 11.2 (b), 11.2 (c), 11.2 (e) to the Standards Committee, after consultation with the Independent Person.

1.0 Background

1.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

2.0 Report

2.2 This report describes the changes and recommends the actions required for the Council to implement the new regime.

2.3 **Duty to promote and maintain high standards of conduct**

2.4 The authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members.

3.0 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, there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee, it 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 Council votes otherwise with no Member voting against. The present restriction to only one Member of the Executive on the Standards Committee will cease to apply;

(b) The current co-opted independent Members will cease to hold office. The Act establishes for a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent Members cannot serve as Independent Persons for 5 years. The new Independent Persons may be invited to attend meeting so the Standards Committee and could be co-opted onto the Committee;

(c) The District Council will continue to have responsibility for dealing with standards complaints against elected and appointed Members of Parish Councils, but the current Parish Council representatives cease to hold office. It is recognised that the Council may not want to reconstitute a Standards Committee as such or add responsibilities to another Committee (e.g. the Audit Committee). However, there is still a need for a Member body to consider complaints where informal

resolution is unsuccessful or inappropriate. To avoid legal challenge and demonstrate the application of natural justice, a hearing following an investigation and report is necessary. It enables the subject Member to respond and an impartial decision to be taken. Without a committee all matters would have to be considered by full Council.

3.2 Issue 1 – The District Council needs to decide whether to set up a Standards Committee, and if so, how it is to be composed. If not, how Standards issues should be considered.

3.3 The Standards Committee recommendation

To create an Advisory Committee with independent Members with voting rights operating in the same way as the current Standards Committee but advising full Council **(Essential Reference Paper 'F')**. The Members of the existing Standards Committee would be appointed to the Committee.

3.3.1 **Alternative Recommendation**

(a) That the Council establish a Standards Committee comprising 5 elected Members of the District Council, appointed proportionally **(Essential Reference Paper 'G')**;

(b) That the Leader of the Council be requested to nominate to the Committee only one Member who is a Member of the Executive;

3.4 **The Code of Conduct**

3.5 The current ten General Principles and Model Code of Conduct will be repealed, and Members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted Member's conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

(a) Selflessness
(b) Integrity
(c) Objectivity
(d) Accountability

(e) Openness
(f) Honesty
(g) Leadership

3.6 The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the 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. The result is that it is not yet possible to draft Code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider that it might be appropriate to include in the Code in respect of the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it might be sensible at this stage to instruct the Monitoring Officer to prepare a draft Code which requires registration and disclosure for those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal as required by the Act for DPIs.

3.7 The Act prohibits Members with a DPI from participating in authority business, and the Council can adopt a Standing Order requiring Members to withdraw from the meeting room.

3.8 The Council's new Code of Conduct will have to deal with the following matters –

General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct. Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains "appropriate" provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate. The options are:

(a) to adopt the code recommended by the Standards Committee (**Essential Reference Paper B)**

(b) Adopt the Local Government Association's "Template code and guidance note on conduct'. **(Essential Reference Paper C)**

3.9 **Issue 2 – The Council has to decide what it will include in its Code of Conduct**

3.10.1 **The Standards Committee recommendation**

The Standards Committee recommends the adoption of a code prepared by the Committee and contained **in Essential Reference Paper B**

Alternative Recommendation

(a) Adopt the Local Government Association's "Template code and guidance note on conduct'. **(Essential Reference Paper C)**

(b) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Leader of the Council, add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.

4.0 Dealing with Misconduct Complaints

4.1 "Arrangements"

4.1.1 The Act requires that the Council adopt "arrangements" for dealing with complaints of breach of Code of Conduct both by District Council Members and by Parish Council Members, and such complaints can only be dealt with in accordance with such "arrangements". So the "arrangements" must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of Conduct.

4.1.2 The advantage is that the Act repeals the requirements for separate Referrals, Review and hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. As the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

4.2 Decision whether to investigate a complaint

4.2.1 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 sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where he feels that it would be inappropriate for him to take a decision on it, for example where he has previously advised the Member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for 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 is right that he should be accountable for its discharge. For this purpose, it would be appropriate that he make a quarterly report to Standards Committee, which would enable him to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.

4.3 "No Breach of Code" finding on investigation

4.3.1 Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to the Standards Committee and the Sub-Committee take the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to Standards Committee if he feels appropriate. It would be appropriate of copies of all investigation reports were provided to the Independent Person to enable him to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary report of each such investigation to Standards Committee for information.

4.4 "Breach of Code" finding on investigation

4.4.1 Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. However, it is suggested that at this stage it would only be appropriate for the

Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee.

4.4.2 In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Panel constituted as a Sub-Committee of Standards Committee) to hold a hearing at which the Member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the Member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

4.5 Action in response to a Hearing finding of failure to comply with Code

4.5.1 The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on Members. So, 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 securing the continuing ability of the authority to continue to discharge its functions effectively. In practice, this might include the following –

i. A formal letter to the Councillor found to have breached the code;
ii. Formal censure by motion;
iii. Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
iv. Press release or other appropriate publicity

4.6 Appeals

4.6.1 There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

5.0 **Issue 3 – The Council has to decide what "arrangements" it will adopt for dealing with standards complaints and for taking action where a Member is found to have failed to comply with the Code of Conduct.**

The Standards Committee recommendation
Adopt the proposals set out in **Essential Reference Paper D**

Alternative Recommendation
Adopt the proposals set out in **Essential Reference Paper E.**

6.0 Independent Person(s)

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

6.2 "Independence"

6.2.1 The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all Members of the District Council (not just of those present and voting).

6.2.2 A person is considered not to be "independent" if –

(a) he 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;

(b) he 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) he 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 cop-opted Member of any Committee or Sub-Committee of such Council.

6.2.3 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 descendent of the candidate's grandparent;
(e) a parent, brother, sister or child of anyone in Paragraphs (a) or (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.

6.3 Functions of the Independent Person

6.3.1 The functions of the Independent Person(s) are –

(a) They 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 (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

(b) They may be consulted by the authority in respect of a standards complaint at any other stage; and

(c) They 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.

6.3.2 This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the Member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

6.4 How many Independent Persons?

6.4.1 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.

6.5 Remuneration

6.5.1 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 of Members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

6.5.2 In comparison to the current Chairman of Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee but not to be a formal Member of the Committee. 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 `he/she could offer. Where he/she has been so consulted, he/she would be unable to 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.

6.6 Issue 4 – How many Independent Persons are required?

6.6.1 Recommendation

(a) the Council join with other authorities with a pool of Independent Persons

(b) That the Independent Persons be reimbursed for travel and subsistence expenses

7.0 The Register of Members' Interests

7.1 The register of Members' interests

7.2 The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of 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 Parish Councils, which also have to be open for inspection at the District Council offices and on the District Council's website.

7.3 At present it is not known what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was 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.

7.4 The provisions of the Act in respect of the Code of Conduct require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

7.5 The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the District Council offices and on the District Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.

7.6 Registration on election or co-option

7.7 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 as a Member.

7.8 In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct.

7.9 There is no continuing requirement for a Member to keep the register up to date, except on re-election or re-appointment, but it is likely that Members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.

7.10 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 in respect of interests other than DPIs. There is no provision for the District Council to recover any costs from Parish Councils.

7.11 **Issue 5 – Preparation of the Registers**

7.11.1 **Recommendation**

(a) That the Monitoring Officer prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;

(b) That the Monitoring Officer ensure that all Members are informed of their duty to register interests;

(c) That the Monitoring Officer prepare and maintain new registers of Members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and

(d) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.

8.0 Disclosure of Interests and Withdrawal from Meetings

8.1 As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences.

(a) The duty to disclose and withdraw arises whenever a Member attends any meeting of Council, a Committee or Sub-committee, or of the Executive or a Executive committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even of the Member would be absent from that part of the meeting where the matter in question is under consideration.

(b) 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"). So, Members of the public attending the meeting will in future need to read the register of Members' interests, as registered interests will no longer be disclosed at the meeting.

(c) Where the Member does make a disclosure of a 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.

8.1.1 If a Member has a DPI in any matter, he/she must not –

(a) 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; or

(b) Participate in any vote on the matter,

(i) unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

(c) Failure to comply with the requirements becomes a criminal offence, rather than leading to sanctions;

(d) 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.

(e) The requirement to withdraw from the meeting room can be covered by Standing Orders, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Executive and Executive 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.

8.2 Issue 6 – What Standing Order should the Council adopt in respect of withdrawal from meetings for interests?

8.2.1 **Recommendation**

The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

9.0 Disclosure and Withdrawal in respect of matters to be determined by a Single Member

(a) Matters can be decided by a single Member acting alone where the Member is an Executive Member acting under Portfolio powers, or where the Member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors.

(b) The Act provides that, when a Member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –

(c) Unless the DPI is already entered in the register of Members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and

(d) He/she must take no action in respect of that matter other than to refer it another person or body to take the decision.

(e) Standing Orders can then provide for the exclusion of the Member from any meeting while any discussion or vote takes place on the matter.

(f) Note that the Act here effectively removes the rights of a Member with a prejudicial interest to make representations as a Member of the public under Paragraph 12(2) of the current Code of Conduct

9.1 Issue 7 – In what circumstances should Standing Orders exclude single Members from attending meetings while the matter in which they have a DPI is being discussed or voted upon?

9.1.1 **Recommendation**

The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

10.0 Sensitive Interests

10.1 The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.

10.2 So, where a Member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of Members' interests would lead to the Member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".

10.3 If the Monitoring Officer agrees, the Member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of Members' interests.

11.0 Dispensations

11.1 The provisions on dispensations are significantly changed by the Localism Act. At present, a Member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –

(a) That at least half of the Members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realise how many Members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); 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 (this ground would require that the Members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).

11.2 In future, a dispensation will be able to be granted in the following circumstances

(a) That so many Members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result;

(b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so changed as to alter the outcome of any vote on the matter. This assumes that Members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;

(c) That the authority considers that the dispensation is in the interests of persons living in the authority's area;

(d) That, without a dispensation, no Member of the Executive would be able to participate on this matter (so, the assumption is that, where the Executive would be inquorate as a result, the matter can then be dealt with by an individual Executive Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or

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

11.3 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

11.4 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds 11.2 (a) and 11.2 (d) are relatively objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted "at the door of the meeting". Grounds 11.2 (b), 11.2 (c) and 11.2 (e) are rather more subjective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

11.1 Issue 8 – What arrangements would be appropriate for granting dispensations?

11.1.1 **Recommendation**

That Council delegate the power to grant dispensations –

(a) on Grounds set out in Paragraphs 11.2 (a) and 11.2 (d) of this report to the Monitoring Officer with an appeal to Standards Committee, and

(b) on Grounds 11.2 (b), 11.2 (c), 11.2 (e) to the Standards Committee, after consultation with the Independent Person.

12.0 Transitional Arrangements

12.1 Regulations under the Localism Act will provide for –

(a) transfer of Standards for England cases to local authorities following the abolition of Standards for England;

(b) a transitional period for the determination of any outstanding complaints under the current Code of Conduct.

(c) removal of the power of suspension from the start of the transitional period; and

(d) removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

13.0 Implications/Consultations

13.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers
None

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