

**STANDARDS COMMITTEE**

**THURSDAY 7 JUNE 2012 AT 7.30 PM**

**DACORUM ROOM, CIVIC CENTRE, HEMEL HEMPSTEAD**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Cllr Flint  
Cllr Lloyd  
Cllr Rance

Cllr Allan (Tring Town Council Member)  
Mrs J Brown (Independent Member)  
Mrs E Heylin (Independent Member)

Cllr Wood  
Cllr Burfot (Nettleden with Potten  
End Parish Council Member)

Mrs S Savage (Independent Member &  
Chairman)  
Cllr Steer (Bovingdon Parish Council Member)

**Also requested to attend:**

The Assistant Director (Legal, Democratic and Regulatory) and a Member Support Officer.

For further information, please contact Pauline Bowles, Member Support Officer, on Tel: 01442 228221, Fax: 01442 228264, E-mail: [pauline.bowles@dacorum.gov.uk](mailto:pauline.bowles@dacorum.gov.uk) or visit our web-site: [www.dacorum.gov.uk](http://www.dacorum.gov.uk)

**PART I**

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**1. MINUTES**

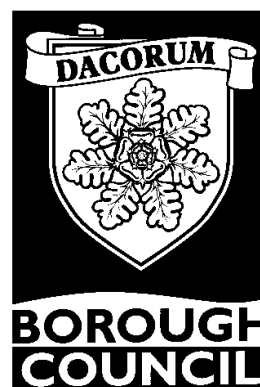
To confirm the minutes of the meeting held on 19 January 2012 (Appendix A).

**2. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

**AGENDA ITEM: 3**

**SUMMARY**



<b>Report for:</b>	<b>Standards Committee</b>
<b>Date of meeting:</b>	<b>7<sup>th</sup> June 2012</b>
<b>PART:</b>	<b>I</b>
If Part II, reason:	

<b>Title of report:</b>	<b>THE LOCALISM ACT 2011 - CHANGES TO THE STANDARDS REGIME</b>
Contact:	Steven Baker, Assistant Director (Legal, Democratic & Regulatory) Directline: 01442 228229, internal extension: 2229 steve.baker@dacorum.gov.uk
Purpose of report:	To update Members of the changes to the standards regime brought about by the Localism Act 2011.
Recommendations	That the report be noted.
Corporate objectives:	The promotion and maintenance of high standards of conduct by Members of the Council will assist the Council in achieving its priorities of performance excellence and reputation and profile delivery.
Implications: 'Value For Money Implications'	There are financial and efficiency costs to the Council in having to deal with complaints made under the Code of Conduct. There are, therefore, value for money benefits to the Council in striving to ensure that complaints against Members are minimised as far as possible and any complaints that are received are dealt with as cost effectively as possible.
Risk Implications	The risk to the Council in not having in place a robust local standards regime could damage its reputation for good governance and undermine public confidence in the Council as a whole.
Monitoring Officer	This is a report prepared by the Assistant Director (Legal, Democratic & Regulatory) in his capacity as Monitoring Officer.

Consultees:	None
Background papers:	Localism Act 2011 Previous report to Standards Committee dated 19 January 2012

## BACKGROUND REPORT

1. Since the last meeting of the Standards Committee on 19 January 2012 the Cabinet and Council have agreed the following arrangements for standards in response to the changes introduced by the Localism Act 2011.
2. At the meeting of Annual Council on 16 May 2012 a new Code of Conduct was adopted (appendix 1). The new Code replicates where appropriate the provisions of the existing Code. This is in line with the recommendation of the Standards Committee.
3. Annual Council also appointed a new Standards Committee consisting of:
  - 5 elected members of the Borough Council
  - 2 co-opted independent members with no voting rights
  - 2 co-opted Town/Parish Councillors with no voting rights

The Council agreed to disapply the rules of political proportionality and the Chair and Vice Chair are to be appointed by the Committee.

The new Code and the new Standards Committee will come into effect from the date the Government bring into force the new arrangements for standards contained in the Localism Act 2011 (this is expected to be on 1<sup>st</sup> July 2012). Until the new arrangements come into force the existing Code of Conduct and Standards Committee will remain in place.
4. The arrangements for dealing with complaints and the delegated sanctions had previously been approved by Council on 29 February 2012. These are set out in appendix 2 and are again in line with the recommendation of the Standards Committee.
5. One matter still to be resolved is the recruitment of the Independent Person. The Monitoring Officer will update the Committee verbally on the process of recruiting and appointing the Independent Person. As explained previously, the current independent members of the Standards Committee are prevented from serving as an 'independent person' for Dacorum Borough Council. This is because the Localism Act excludes persons who have been an elected or co-opted member of any committee of the Council within the last 5 years from being appointed as an Independent Person for that Council.
6. However, the current independent members of the Standards Committee are not prevented from continuing to serve as independent members on the new Standards Committee, except that they will only be able to serve in a non-voting capacity.

**DACORUM BOROUGH COUNCIL**

**CODE OF CONDUCT FOR MEMBERS**

(Adopted by Annual Council 16 May 2012)

**Part 1**

**General Provisions**

**1. Introduction and interpretation**

- (1) As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority. This Code deals with the conduct that is expected of you as a member of this authority when you are acting in that capacity.

The Code has been drawn up in accordance with Section 28 of the Localism Act 2011 (the Act). The provisions of this Code are consistent with the seven principles contained in Section 28(1) of the Act (the so-called “Nolan Principles”) and these are set out in Appendix 1.

- (2) In this Code-

“meeting” means any meeting of:

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
- (d) any Task and Finish Group or similar internal body;
- (e) one or more members with an officer or officers of the authority, including any briefings by officers and site visits organised by the authority; or
- (f) any other meeting (except party group meetings) where one or more members are attending in an official capacity (or might reasonably be regarded by a member of the public as attending in an official capacity);

## **2. Who does the Code apply to?**

- (1) This Code applies to all members of Dacorum Borough Council, including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

## **3. What does the Code apply to?**

- (1) This Code applies to your conduct when you are acting in the capacity of an elected member or co-opted member of the Council or its Committees and Sub-Committees.
- (2) You must comply with this Code whenever you-
  - (a) conduct the business of the authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of the authority,and references to your official capacity are construed accordingly.
- (3) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (4) Where you act as a representative of the authority-
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **4. General Obligations**

- (1) You must treat others with respect.
- (2) You must not
  - (a) do anything which may cause your authority to breach any of the equality enactments ;
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or

- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which comprises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

## **5. Confidential Information**

You must not-

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where-
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is-
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

## **6. Not bringing the authority into disrepute**

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute.

## **7. Conferring an advantage or disadvantage**

You-

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the authority-
  - (i) act in accordance with the authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **8. Decision-making**

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by-
  - (a) the authority's chief finance officer; or
  - (b) the authority's monitoring officer;

where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

## **Part 2**

### **Members' Interests**

## **9. Disclosable Pecuniary Interests**

- (1) You have a disclosable pecuniary interest in any business of the authority if it is of a description set out in 9.2 below and is either-
  - (a) an interest of yours, or
  - (b) an interest of-
    - (i) your spouse or civil partner,
    - (ii) a person with whom you are living with as husband and wife, or
    - (iii) a person with whom you are living with as if you were civil partners,

and you are aware that that other person has the interest.

- (2) "Disclosable Pecuniary Interests" are defined by *(Disclosable Pecuniary Interests are to be defined in regulations which are still awaited)* and are-  
  
*(this will be completed when the regulations defining Disclosable Pecuniary Interests have been made)*

## **10. Other Personal Interests**

- (1) You have a personal interest in any business of the authority where either:
  - (a) it relates to or is likely to affect:



- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
- (ii) any body:
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management;
- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in the authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between the authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in the authority's area in which you have a beneficial interest;
- (x) any land where the landlord is the authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers,

ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

- (2) In sub-paragraph (1)(b), a relevant person is-
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii)

## **11. Disclosure of Personal Interests**

- (1) Where you have a personal interest in any business of the authority and you attend a meeting of the authority at which the business is to be considered, you must disclose to that meeting the existence and nature of that interest before the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business which relates to or is likely to affect a body described in paragraph 10(1)(a)(i) – i.e. a body to which you have been appointed as the authority’s nominee – or 10(1)(a)(ii)(aa) – i.e. a body exercising functions of a public nature of which you are a member or in a position of general control or management - you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 10(1)(a)(viii) – i.e. where you have received a gift or hospitality from a person worth at least £25 – you need not disclose the nature and existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 17, sensitive information relating to it is not registered in the authority’s Register of Members’ Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 14(c), where you have a personal interest in any business of the authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **12. Prejudicial Interests Generally**

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business -
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 10;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 10; or
  - (c) relates to the functions of the authority in respect of -
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **13. Prejudicial interests arising in relation to overview and scrutiny committees**

You also have a prejudicial interest in any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where -

- (a) that business relates to a decision made (whether implemented or not) or action taken by the authority's executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

#### **14. Effect of prejudicial interests on participation**

- (1) Where you have a prejudicial interest in any business of the authority under paragraph 12 which is to be considered at a meeting (including a meeting of an overview and scrutiny committee) at which you are present--
  - (a) you must, unless paragraph 11(5) applies (sensitive information) disclose the existence and nature of the interest in accordance with paragraph 11(1)  
  
and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded;
  - (b) you must not, unless you have obtained dispensation from the monitoring officer, participate in any discussion or voting on the matter, except that you may still make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose;
  - (c) you must not exercise executive functions in relation to that business; and
  - (d) you must not seek improperly to influence a decision about that business.

#### **15. Effect of Disclosable Pecuniary Interests on Participation**

- (1) If present at a meeting and you are aware that you have a disclosable pecuniary interest under paragraph 9 in any matter to be considered, or being considered at the meeting, you must not, unless you have obtained dispensation from the monitoring officer--
  - (a) participate, or participate further, in any discussion of the matter at the meeting, or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting,  
  
and, unless the meeting is a Council meeting, you must move to the public seating area until that business has been concluded,
  - (c) you must not exercise executive functions in relation to that business; and
  - (d) you must not seek improperly to influence a decision about that business
- (2) If a function of the authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself)

### **Part 3**

#### **Registration of Members' Interests**

##### **16. Registration of members' interests**

(1) Subject to paragraph 17, you must, within 28 days of -

- (a) this Code being adopted by the authority; or
- (b) your election or appointment to office (where that is later),

register in the authority's Register of Members' Interests (maintained by the monitoring officer under Section 29(1)) of the Act details of any-

- (i) disclosable pecuniary interests as referred to in paragraph 9 that you may have, or your spouse, civil partner or person with whom you live as if they were your spouse or civil partner may have in so far as you are aware of their interests at that time
- (ii) other personal interests that you may have where they fall within a category mentioned in paragraph 10(1)(a)

by providing written notification to the authority's monitoring officer.

(2) Subject to paragraph 17, you must, within 28 days of becoming aware of any new disclosable pecuniary interest or other personal interest or change to any existing disclosable pecuniary interest or other personal interest registered under paragraph (1), register details of that new interest or change by providing written notification to the authority's monitoring officer.

##### **17. Sensitive information**

(1) Where you and the authority's monitoring officer both consider that the information relating to any of your interests (whether or not a disclosable pecuniary interest) is sensitive information then copies of the register that are made available for inspection, and any published version should not include details of the interest but may state that you have an interest details of which are withheld under Section 32(2) of the Act and/or this paragraph.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that details excluded under paragraph (1) are no longer sensitive information, notify the authority's monitoring officer asking that the details be included in the authority's Register of Members' Interests.

(3) In this Code, "sensitive information" means information which if disclosed or made available for inspection by the public could lead you, or a person connected with you, to being subject to violence or intimidation.

## **CODE OF CONDUCT**

### **APPENDIX 1**

#### **THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011**

##### **SELFLESSNESS**

Members should only serve the public interest and should never improperly confer an advantage or disadvantage on any person

##### **INTEGRITY**

Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

##### **OBJECTIVITY**

Members should make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

##### **ACCOUNTABILITY**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

##### **OPENNESS**

Members should be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

##### **HONESTY**

Members should not place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

##### **LEADERSHIP**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## APPENDIX 2

### ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS

(Approved by Council on 29 February 2012)

1. That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
2. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He/she be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he/she be given discretion to refer decisions on investigation to the Standards Committee where he/she feels that it would not be appropriate for him/her to take the decision, and to report to Standards Committee on the discharge of this function;
- 3.. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
4. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, he/she is to report the investigation findings to the Standards Committee (or a Hearings Sub-Committee) for local hearing;

### DELEGATED SANCTIONS

- 5.. That Council delegate to the Standards Committee (or a Hearings Sub-Committee) such of its powers as can be delegated to take action in respect of a member who is found following a hearing to have failed to comply with the Code of Conduct, such actions to include –
  - Issuing a reprimand;
  - Reporting its findings to Council [*or to the Parish/Town Council*] for information;
  - Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

- Instructing the Monitoring Officer to *[or recommend that the Parish/Town Council]* arrange training for the member;
- Removing *[or recommend to the Parish/Town 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/Town Council]*;
- Withdrawing *[or recommend to the Parish/Town Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- Excluding *[or recommend that the Parish/Town Council 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.

**4. DATE OF NEXT MEETING**

To inform Members of the dates for the next Standards Committee

Thursday 20 September 2012.

**5. EXCLUSION OF THE PUBLIC**

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1 as amended by the Local Government (Access to Information) (Variation) Order 2006 the public be excluded during the item in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during that item there would be disclosure to them of exempt information relating to:



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**DACORUM BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**19 JANUARY 2012**

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Present -

**MEMBERS:**

Borough Councillors, Flint, Lloyd and Rance and Julie Steer (Bovingdon Parish Council) and Independent Members Eileen Heylin and Shelley Savage (Chairman).

**OFFICERS:**

Steven Baker Assistant Director (Legal, Democratic & Regulatory) and Monitoring Officer and Pauline Bowles (Member Support Officer).

The meeting began at 7.30 pm.

**11. MINUTES**

The minutes of the meeting held on 13 January 2011 were confirmed by the Members present and were then signed by the Chairman.

**12. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf Borough Councillor Wood; Town and Parish Councillors John Allan, (Tring Town Council) and Daniel Burfot (Nettleden with Potten End Parish Council); Independent Member, Joanna Brown.

**13. THE LOCALISM ACT 2011 - CHANGES TO THE STANDARDS REGIME**

The Monitoring Officer summarised his report on the changes to the Standards Regime in Local Government brought about by the Localism Act 2011.

The Monitoring Officer highlighted the following points.

- The changes contained in the Localism Bill were previously reported to the Standards Committee in January 2011.
- The House of Lords moved some amendments to the Bill which were accepted by the Government.
- The changes mean that every council is obligated to have a Code of Conduct but will have discretion as to what is included in the Code provided it is consistent with the seven specified principals of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- The council must decide on what pecuniary and non-pecuniary interests Members must register and disclose. The exception is what the Act refers to as Disclosable Pecuniary Interest (DPIs) but the definition of what constitutes a DPI is not yet known. It is thought that DPIs will reflect the current prejudicial interests such as a significant financial interest.

- A DPI must be registered and disclosed and will exclude a member from taking part and voting on that matter. The authority has discretion to adopt a Standing Order requiring members to withdraw from the meeting if they have a DPI. Failure to register and disclose a DPI will be a criminal offence
- The recommendations contained within the report offer a stop gap because the Act does not specify a date when the changes come into force but it is likely to be the start of either the financial or municipal year 2012.
- The second major change under the new Act deals with the process for dealing with complaints. Principal Councils (not Town/Parish Councils) have to have arrangements in place but the Act does not prescribe what that process should be. The exception being the appointment of Independent Persons who will have a role to play in dealing with complaints.
- Councils are not required to appoint a Standards Committee but there will still be a need for the Council to deal with standards complaints and it is therefore recommended that the Council does appoint a Standards Committee. A membership of nine is recommended because nine is the optimum number in terms of cross-party representation and the committee will be appointed under the same rules as any other committee with political proportionality. For DBC, nine members would give representation from all three political groups.
- There will be no provision for Town/Parish Councillors or independent members unless the Council chooses to co-opt in a non-voting capacity.
- In the rules that govern political proportionality the Council does have the power to dissapply the rules but it would require a unanimous vote at full Council.
- The Act enables the Council to establish its own process of investigating complaints which gives an opportunity to adopt a simpler and speedier process by delegating the initial decision on whether a complaint requires investigation to the Monitoring Officer (in consultation with the Independent Person). If the Monitoring Officer and Independent Person conclude that the complaint warrants investigation, then the Monitoring Officer will arrange the investigation (as happens at the moment) and if the investigation concludes that there is no case to answer then the Monitoring Officer has the power to close the case. If there is a case to answer the complaint will be transferred to a Hearings Panel.
- The Act does not contain any powers of sanction and so where there is a failure to comply with the Code the range of actions available are limited.
- There is no provision for right of appeal.
- The arrangements that the Council put in place to deal with complaints would also have to include complaints against Town/Parish Councillors. Town/Parish Councils are bound to adopt a Code of their own, but they are not bound under the Act to put into place a process for dealing with complaints. Where a Town/Parish Councillor is found to be in breach of the Code, the Standards Committee can only make a recommendation to the Town/Parish Councils; they are not bound to accept the results.
- The Borough Council will not be able to charge Town/Parish Councils for investigations of their councillors because it will be a mandatory service. It is expected that only serious breeches will be investigated.
- Parish Clerks were advised after the initial report on the proposed changes to the standards regime and they will be updated with a copy of the report that is being submitted to Cabinet on 7 February.
- The report, put together by the Monitoring Officer was based on a specimen report circulated from Peter Keith-Lucas which he circulated to all authorities. The only member to have seen the report was the Portfolio Holder for Residents and Regulatory Services who was emailed a copy just prior to the

meeting of the Standards Committee in advance of the Cabinet meeting on 7 February.

- The Act specifies that a person is prevented from applying to be an Independent Person if they have been an elected or a co-opted member of any committee of the Borough Council or any of the Town/Parish Councils within the area in the last 5 years. It has been suggested that there is a pool of experienced and trained Independent members within the County whose expertise could be utilised elsewhere.
- The Act specifies that at least one Independent Person should be appointed but the recommendation is for 2-3 in order to provide cover should an Independent Person be conflicted out or otherwise unavailable.
- An Independent Person may be consulted at any stage of an investigation but they must be consulted before a decision on a complaint is made. The surprising point is that the councillor with a complaint against them may also consult the Independent Person.
- It would appear that some of these issues were hurried through so that the changes to the Standards Regime did not hold up the Localism Bill.
- Official notification has been received that the Standards Board for England is to be abolished on 31 January. This will mean a loss of the interpretation and guidance that they offered.
- The recommendations contained within the report are to help the Council through the short-term. Leaders within Herts have been putting forward a suggestion of a common Code at a later stage.

The Parish representative was concerned that without Town/Parish Council representation, the new Standards Committee would not understand how Parish Councils work and have no input into the decisions of the Standards Committee. The Monitoring Officer commented that we have 'twin hatted' councillors and it is likely that there will be representation on the Standards Committee. The Standards Committee can co-opt Town/Parish Councillors but they will have no voting powers.

Discussion took place on whether there should be Cabinet Members on The Standards Committee. The Monitoring Officer explained that under Recommendation 2 only one Cabinet member can be a member of the Standards Committee. Normally Cabinet Members are not voted onto Committees in order to allow seats on Committees to be taken by non-Cabinet Members. There were mixed views from the Standards Committee Members:

- Cabinet members are the decision makers of the Council and as such carry more weight and it would be wrong for them to be on a Committee that might question something related to one of their decisions.
- If a Complaint was made against a Cabinet Member it would be wrong for one of their own Cabinet Group to consider the complaint.
- If Standards are considered to be important, it may be beneficial to see a leading Member of the Cabinet as a member of the Standards Committee to underline the importance of that committee.
- Proportionality causes some concern when there is a majority of one party because it can feel political. The perception of impartiality will increase if the Council is then seen to exclude a particular Group such as Cabinet.

The Monitoring Officer commented that an advantage of having a Cabinet member on the Standards Committee would be that under the new regime the Standards Committee will have no powers; it can only make recommendations and a lot of the recommendations will rely upon the Leader of the Council cooperating and imposing

any suggested sanctions. A Cabinet member on the Committee may mean that recommendations from the Standards Committee carry more weight.

It was agreed to change the wording of Recommendation 2 to read: 'there is no requirement for a Cabinet Member on the Standards Committee, but in any event there should be no more than one Cabinet Member'.

Discussion followed about representation of Town/Parish Councillors on the Standards Committee. It was felt that since the majority of complaints involve Town/Parish Councillors there should be some input in the Standards Committee for that particular tier of governance. The previous regime encouraged their involvement and they made a valuable contribution. There were originally two Town/Parish Council representatives but this was increased to three to accommodate the referral and review sub committees.

It was agreed to add to the wording of recommendation 2 'that one Town and one Parish representative (not twin hated) be co-opted on to the Standards Committee.

The Monitoring Officer pointed out that a process for co-opting Town/Parish Council representatives will need to be approved by Full Council. Nominations could be sifted by the Standards Committee to ensure that they are appropriate people to serve on the Standards Committee before recommending to Full Council as with the Housing and Community Overview and Scrutiny Committee.

This report, with the minor amendments to the recommendations suggested by the Standards Committee will be submitted to Cabinet on 7 February 2012 before referral to Full Council on 29 February 2012.

Resolved:

### **Recommendation 1 - The Changes**

- (i) That Cabinet be recommended to instruct the Monitoring Officer to prepare and present to Council for adoption a draft Code of Conduct. That draft Code should –**
  - (a) replicate Paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its Committees and Sub-Committees; and**
  - (b) require registration and disclosure of interests which would today constitute personal and/or prejudicial interests under the current Code except that there will be no requirement for a member with a prejudicial interest to withdraw from participation. Withdrawal from participation will only apply in relation to Disclosable Pecuniary Interests when these have been introduced by regulations.**
- (ii) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer shall amend the adopted Code accordingly and present the amended Code to Council for adoption.**

## **Recommendation 2 - Standards Committee**

- (i) That Cabinet recommend Council to appoint a Standards Committee comprising 9 elected members of the Borough Council, appointed proportionally. There is no requirement for a Cabinet Member on the Standards Committee, but in any event there should be no more than one Cabinet Member.**
- (ii) That one Town and one Parish Council representative (not being members of the Borough Council) be co-opted on to the Standards Committee.**

## **Recommendation 3 - Dealing with Misconduct Complaints**

**That Cabinet recommend to Council for approval the following arrangements for dealing with standards complaints -**

- a. That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- b. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He/she be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he/she be given discretion to refer decisions on investigation to the Standards Committee where he/she feels that it would not be appropriate for him/her to take the decision, and to report to Standards Committee on the discharge of this function;**
- c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, he/she is to report the investigation findings to the Standards Committee (or a Hearings Sub-Committee) for local hearing;**
- e. That Council delegate to the Standards Committee (or a Hearings Sub-Committee) such of its powers as can be delegated to take action in respect of a member who is found following a hearing to have failed to comply with the Code of Conduct, such actions to include –**
  - Issuing a reprimand;**

- Reporting its findings to Council *[or to the Parish/Town Council]* for information;
- Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to *[or recommend that the Parish/Town Council]* arrange training for the member;
- Removing *[or recommend to the Parish/Town 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/Town Council]*;
- Withdrawing *[or recommend to the Parish/Town Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- Excluding *[or recommend that the Parish/Town Council 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.

#### **Recommendation 4 - Independent Persons**

- (i) That the Monitoring Officer advertise a vacancy of the appointment of 3 Independent Persons
- (ii) That a Sub-Committee comprising the Chair and three other members of Standards Committee be set up to set the allowances and expenses for the Independent Persons, to short-list and interview candidates, and to make a recommendation to Council for appointment.

#### **It was also agreed**

That the Town/Parish Councils be sent a copy of the report that is submitted to Cabinet on 7 February 2012 on the changes to the Standards Regime in Local Government as currently set out in the Localism Bill.

#### **14. DATE OF NEXT STANDARDS COMMITTEE MEETING**

Thursday 15 March 2012 – subsequently changed to 7 June 2012

The meeting ended at 8.50 pm.