

Report of	Meeting	Date
Monitoring Officer	Full Council	6 December 2011

THE LOCALISM ACT – IMPACT ON THE STANDARDS REGIME

PURPOSE OF REPORT

- To update members on the proposed changes to the standards regime for Local Authorities.

RECOMMENDATION(S)

- That members of Chorley Borough Council note the report.

EXECUTIVE SUMMARY OF REPORT

- The Localism Act received royal assent on 15 November this year. The Act significantly changes the standards regime for members. It criminalises some behaviours, brings to an end Standards for England and revokes the Model Code of Conduct which was adopted by this authority. It also brings within statute the common law rules concerning predetermination.
- The Act now requires Council's to adopt a code that is compliant with the Nolan principles of public life and set up their own schemes for enforcement.
- There is no clear timetable for the implementation of these changes however, it appears certain that Standards for England will cease by 31 March 2011.

Confidential report Please bold as appropriate	Yes	No
--	-----	----

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			X

BACKGROUND

7. The Localism Act 2011 received royal assent on 15 November. It is a significant piece of legislation for local authorities providing changes to the law in a number of areas. This report will concentrate on the issues of Predetermination and Standards.

PREDETERMINATION

8. The Act provides a statutory definition of what constitutes predetermination. Predetermination arises where a decision maker has or appears to have a closed mind on an issue on which they are required to make a decision.
9. A Councillor will not be taken to have a closed mind on an issue if they have said or done anything prior to the making of that decision which would indicate a view held or that might be held by the Councillor.
10. This provision recognises that Councillors may be predisposed to approach some decisions on a declared footing. Such declarations could be election manifestos. Such commitments will not in themselves be seen to be predetermination.
11. Whether a Councillor predetermines an issue will depend on the facts of the individual case, whilst a few general statements of position may not constitute predetermination, specific declarations stating an unshaking position may in fact do so.
12. The new statutory rules concerning predetermination will be effective from 15 January 2012.

STANDARDS

13. The Act abolishes the organisation Standards for England. Instead local authorities will be expected to adopt their own systems regulating the conduct of councillors. Key features will be:-
 - a. The adoption of a code of conduct. There will not be a prescribed form of code. It will be for each authority to adopt a code that conforms with the Standards in Public life defined by the Nolan report. These principles are
 - i. Selflessness
 - ii. Integrity
 - iii. Objectivity
 - iv. Accountability
 - v. Openness
 - vi. Honesty; and
 - vii. Leadership.The authority must publicise its adopted code to persons in the local area.
 - b. There will continue to be a responsibility on members to disclose and register pecuniary interests and interests other than pecuniary interests. This obligation will be contained within the code and the register will be held by the Council's Monitoring Officer.
 - c. A local standards investigation and enforcement regime. With the abolition of Standards for England all local authorities are required to set up their own enforcement scheme. There is an expectation that this will lead to a simplified approach to investigations which will prevent trivial matters being investigated or pursued at substantial cost.
 - d. The use of independent members. There continues to be a requirement that any standards regime adopted appoints at least 1 independent member. The views of the independent member must be sought and taken into account:-
 - i. Prior to an investigation – similar to the current local filter / screening exercise in the current regime.

And may be sought:-

- Concerning an allegation that is not yet a complaint;
- By any member who has been complained about.

- e. Standards Complaints. Must be made in writing in order to be accepted as a complaint. There is no limitation on who may bring a complaint.
- f. Sanctions. The Act does not interfere with the sanctions which can currently be imposed at a local level. Where a breach has been found the authority may issue a written warning as to future conduct, move a motion of censure at Council, suspend the councillor or in the most minor of matters take no action.
- g. Register of Interests. The register is to be held and maintained by the Council's Monitoring Officer. It is for the council to determine what interests should be registered (in addition to the disclosable pecuniary interests which are yet to have statutory definition). Disclosable pecuniary interests must be registered by each member within 28 days of becoming a member of the authority. The Register should be available for public inspection and will be published on the Council's website.
- h. Pecuniary Interests and Participation in Meetings. Where a member has registered a pecuniary interest which is effected by a matter being considered at a meeting of the Council they may not participate in any discussion nor in any vote. Where a member has a pecuniary interest in such a matter, which has not been registered, the member must declare the interest to the meeting and again may not participate in the discussion or vote. In addition, the pecuniary interest should be registered within 28 days of the meeting.
- i. Pecuniary Interests and Decision Making. Where an executive member is considering a matter within their portfolio, they should not do so where they have a pecuniary interest. Again if they have not registered this interest, they should do so within 28 days of becoming aware of its existence.
- j. Sensitive Interests. Where the member and the monitoring officer, consider that publication of details of a pecuniary interest in the register may lead to the member being subjected to violence or intimidation, then the published copy of the register will not include detail of the pecuniary interest.
- k. Dispensations. Where the existence of a pecuniary interest affecting a number of members will impact on the ability of the Council to discharge its functions it may grant a dispensation to allow the affected members to participate in the business.

CRIMINAL OFFENCES

- 14. The Act also makes it an offence for a member to:-
 - a. Fail to register a disclosable pecuniary interest within 28 days of taking office; or
 - b. Fail to disclose a pecuniary interest at a meeting considering relevant business; or
 - c. Fail to register a pecuniary interest disclosed at a meeting within 28 days; or
 - d. Fail to register a pecuniary interest which they become aware of while exercising a decision making function of the Council on their own within 28 days of becoming aware of the interest; or
 - e. Participate in a meeting in which they have a pecuniary interest; or
 - f. Take steps to exercise a decision making function when they have a pecuniary interest in the matter concerned.
- 15. It is also an offence to knowingly or recklessly make a false disclosure under 14 (a) – (d) above.
- 16. Where a member is found guilty of one of the new offences they can be fined and the court may disqualify them from being a councillor for up to 5 years.

PARISH COUNCILS

- 17. Parish Council's will still be required to have a code of conduct which complies with the Act. It is likely that any code adopted by this authority will be used by parishes within our boundary.
- 18. The Monitoring Officer of this authority will also be responsible for ensuring that the parish council's register of members interests will be available for public inspection at all reasonable hours and that the parish's register is published on CBC's website.

TIMETABLE FOR IMPLEMENTATION

19. The only provision which has a clear date for the provision to be operative is the section on predetermination which will come into force 2 months after the Act receives Royal Assent (15 January 2012).
20. The transitional provisions of the Act make it clear that the remaining changes will be brought into force by order or statutory instrument issued by a Minister of the Crown. No guidance or timetable for these dates has been issued, although it is believed that the majority of changes will be in place before the 31 March 2012.

IMPLICATIONS OF REPORT

21. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

22. No comments.

CHRIS MOISTER
MONITORING OFFICER

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	23 Nov 2011	

OR

Background Papers			
Document	Date	File	Place of Inspection
***	***	***	***

Report Author	Ext	Date	Doc ID
***	***	***	***