

**Roberto Tambini  
Chief Executive**

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Our Ref:  
Date:- 28 November 2011

**Notice of meeting:**

**Standards Committee**

**DATE: Monday 5 December 2011**

**TIME: 7.30pm**

**PLACE: Goddard Room, Council Offices, Knowle Green, Staines**

**TO: Members of the Standards Committee**

***Councillors:***

R.D. Dunn

Ms P.C. Forbes-Forsyth

G.E. Forsbrey

Mrs J.A. Dale

Mrs M.J. Madams

S.D. Taylor

***Independent Members:***

Mr. M. Litvak (Chairman)

Miss Sue Faulkner (Vice-Chairman)

**EMERGENCY PROCEDURE [THE LIFT MUST NOT BE USED]**

**In the event of an emergency the building must be evacuated. All Members and Officers should assemble on the green adjacent to Broome Lodge. Members of the public present should accompany the Officers to this point and remain there until the Senior Officer present has accounted for all persons known to be on the premises.**

## **Agenda**

### **1. Apologies**

To receive any apologies for non attendance

### **2. Minutes**

To confirm the minutes of the meeting held on 17 March 2011(Copy attached)

### **3. Disclosure of Interests**

To receive any disclosure of interests from members

### **4. Ethical Standards and the Localism Act 2011**

To consider the **attached** report of the Monitoring Officer.

## MINUTES OF THE STANDARDS COMMITTEE

17 MARCH 2011

Present:

### Councillors:

T.W. Crabb

C.A. Davis

K.E. Flurry

A.P. Hirst

Mrs C. Spencer

G.F. Trussler

### Independent Members:

Mr Murray Litvak (Chairman)

Mrs Sue Faulkner (Vice Chairman)

### In Attendance

Councillors H. A.Thomson and R.A. Smith-Ainsley

### 75/11 MINUTES

The minutes of the meeting held on 20 September 2010 were approved as a correct record.

### 76/11 DISCLOSURES OF INTERESTS

No disclosures were made

### 77/11 PLANNING – AMENDMENTS TO THE SCHEME OF DELEGATIONS

To assist the Committee the Chairman of the Planning Committee, Councillor H.A. Thomson and the Portfolio Holder for Planning and Housing, Councillor R.A. Smith-Ainsley had been invited to attend the meeting and take part in the discussion.

The Committee considered the report of the Deputy Chief Executive on the proposed changes to the scheme of delegation regarding planning applications, and what impact these changes would have.

**RESOLVED** that the Cabinet be advised that this Committee supports Option 2 as set out in the report of the Deputy Chief Executive as the new scheme of delegations for dealing with planning matters.

### 78/11 LOCALISM BILL

The Committee discussed the report of the Assistant Chief Executive providing an analysis of the impact of the localism bill on local authorities. It was noted that the proposals included new freedoms and flexibilities for local government, new rights and powers for communities and individuals. The Bill also covered reforms aimed at making the planning system more clearer and effective and reforms to ensure that decisions about housing were taken locally.

**RESOLVED** that the report of the Assistant Chief Executive be noted

**79/11 FUTURE OF THE STANDARDS REGIME**

The Monitoring Officer updated members on the latest developments concerning the abolition of the national standards regime by the Coalition Government.

**RESOLVED** that the current position be noted.

**80/11 OUTCOME OF COMPLAINTS TO THE ASSESSMENT/REVIEW SUB COMMITTEES**

The committee received the minutes of the following sub committee hearings and agreed that the minutes be placed on the Council's website

Standards Review Sub Committee held on 17 January 2011

Standards Assessment Sub Committee held on 2 December 2010

Standards Assessment Sub Committee held on 9 June 2009

## **ETHICAL FRAMEWORK AND THE LOCALISM ACT 2011**

**Standards Committee: 5 December 2011**

**For information**

**Report of the Monitoring Officer**

### **REPORT SUMMARY**

#### **How does the content of this report improve the quality of life of Borough Residents**

Not applicable.

#### **Purpose of Report:**

To brief Standards Committee members on the new Localism Act.

#### **Key Issues:**

- Localism Act
- Standards Committees
- Governance
- Conduct and ethics of elected councillors

#### **Financial Implications:**

There are none.

#### **Corporate Priority.**

Ensuring the Council committee structure is fit for purpose following the Localism Act is one of the Council's priorities.

#### **Officer Recommendations:**

To note the report and to provide comments which can be considered in the forthcoming review.

**Report Author: Michael Graham, Head of Corporate Governance**

**Area of Responsibility: Roberto Tambini, Chief Executive**

**Cabinet member: Councillor Colin Davis**

## MAIN REPORT

### 1. BACKGROUND

- 1.1 This report provides an overview of the measures set out in the Localism Act, which received Royal Assent on 15 November 2011, and their implications for the Council as regards the functions of this Committee.
- 1.2 The following matters are dealt with by the Act with ten parts and numerous schedules - it is a considerable statute:
- (a) General power of competence
  - (b) Further delegation to local authorities
  - (c) Governance
  - (d) Predetermination rules
  - (e) New standards regime
  - (f) Pay transparency
  - (g) Repeals
  - (h) EU financial sanctions
  - (i) Non-domestic rates
  - (j) Community empowerment
  - (k) Council tax referendums
  - (l) Right to challenge
  - (m) Right to buy
  - (n) Planning - Plans and Strategies
  - (o) Community Infrastructure Levy
  - (p) Neighbourhood planning
  - (q) Pre-application consultation required for certain developments
  - (r) Planning enforcement measures
  - (s) Nationally significant infrastructure projects
  - (t) Other planning matters
  - (u) Reform of social housing
  - (v) Abolition of Home Information Packs
  - (w) Powers for London
  - (x) Compulsory purchase compensation
- 1.3 Key measures covered in this note include:
- (a) Predetermination rules
  - (b) New standards regime

## **History of the legislation**

- 1.4 On 25 May 2010, the Queen's Speech set out the legislative priorities for the new coalition government for 2010 and 2011. One of the bills included was the Decentralisation and Localism Bill, which promised to:
  - (a) Devolve greater powers to councils and neighbourhoods
  - (b) Give local communities control over housing and planning decisions
- 1.5 On 13 December 2010, the government presented the renamed Localism Bill to Parliament.
- 1.6 On 15 November the Bill received Royal Assent and became the Localism Act 2011.

## **2. KEY ISSUES**

### **Predetermination rules**

- 2.1 The Act revises the predetermination rules for members, given that the rules on bias left many members uncertain about whether they had the right to speak and vote on the issues on which they campaigned and were elected.
- 2.2 The changes make it clear that councillors have a right to have a preliminary view and can freely discuss and publicise their view and voting intentions as they see fit. However, this is on the basis that councillors must be prepared to listen to all of the arguments and evidence before making their decision.
- 2.3 Section 25 is designed to mitigate the perceived harshness of the rule against predetermination in relation to those decision-makers who are either directly elected to a local authority or who are co-opted members. It applies to views not just about the subject matter of the decision in question but to anything that a councillor has done which might show, directly or indirectly, what view they would take, or might take, about any matter that is relevant to the decision.
- 2.4 I consider that many of the issues raised by this new section have already been considered by the Standards Committee in its recent work to revise the Planning Code. I do not, at first sight, consider that there are any major changes arising from this change that will require any review of the constitution.

### **New standards regime**

- 2.5 The Act will abolish the Standards Board for England and the current framework for Standards and replace it with a requirement that authorities promote and maintain high standards of conduct by members.
- 2.6 Local authorities must adopt a code of conduct and will have to investigate allegations of any member failing to comply with it.
- 2.7 During the report stage of the Bill in the House of Lords, the government amended the Bill to include the requirements that will apply to registers of members' interests and the disclosure of pecuniary interests into the Bill, rather than leave this detail to be made in regulations. In summary:
  - (a) The "Standards Board regime" and all the current legislation will be repealed.

- (b) There will be a new general duty to promote and maintain high standards of conduct by members and voting co-opted members.
- (c) Each “relevant authority” must adopt a code which deals with the conduct expected of members and voting co-opted members when acting in that capacity. It must be consistent with a new set of general principles and the rest of the new legislation, but there will be no national model.
- (d) The Code will need to include provisions about members’ interests but most of the content is for the authority to decide.
- (e) Regulations will define “disclosable pecuniary interests” of members and spouses/partners.
- (f) The Monitoring Officer will keep and publish a register of these as before, but the details of the duty to notify are different and this register has to be online.
- (g) Members will have to make an oral disclosure at meetings if their interest has not been registered. As before, sensitive information can be kept private if there is a risk of violence or intimidation.
- (h) A member with a “disclosable pecuniary interest” in a matter must not participate in any discussion of, or vote on, the matter at the meeting. Standing orders may require the member to leave the meeting. There is a similar rule for individual member decisions (where councils have these).
- (i) It is a criminal offence to fail to notify the Monitoring Officer of an interest of this kind, or to participate in a meeting or take a decision, without reasonable excuse. It is also an offence knowingly or recklessly to provide false or misleading information. Only the DPP can authorise prosecutions, and there are time limits.
- (j) The Council can, however, grant dispensations permitting participation. The grounds for so doing are much wider than before.
- (k) Councils must have in place “arrangements” under which allegations of breach of the code can be investigated and decisions on allegations can be taken, with or without an investigation or a hearing. This could, but need not, include some kind of standards committee. However, there are no sanctions apart from naming and shaming and possibly withdrawal of facilities in some cases.
- (l) Authorities must appoint an Independent Person. They must consult the Independent Person after an investigation, and may consult the Independent Person on other complaints. A member about whom an allegation has been made can also consult the Independent Person.
- (m) The Independent Person cannot be, or have been in the last five years, a member, co-opted member or officer of the Council. This probably rules out the current Independent Members of the Standards Committee.

2.8 The main gaps are the absence of any consistency between councils, especially where some councils will have twin or triple-hatted members with potentially different codes. Also, the lack of any express controls over disrespect, bullying, intimidation, misuse of position or resources or breach of confidentiality, underlined by the omission of “respect” and “stewardship” from the new list of principles. An authority’s code may cover these issues, but this is optional.



2.9 The Government hopes the legislation will take effect in April 2012 but the Regulations about disclosable pecuniary interests have not yet been published. There will be transitional arrangements for existing casework.

2.10 There is a great deal of choice for councils within this framework, and we will need to work quickly to develop our code, our “arrangements” and standing orders, to delegate the power to grant dispensations and appoint one or more Independent Persons.

### **3. OPTIONS ANALYSIS**

3.1 There is no option but to develop new arrangements for Standards.

### **4. PROPOSALS**

4.1 Proposals are in the process of being developed and will be submitted in accordance with the timetable below.

### **5. BENEFITS AND SUSTAINABILITY**

5.1 Not applicable.

### **6. FINANCIAL IMPLICATIONS**

6.1 Not applicable.

### **7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS**

7.1 Discussed in this note. The Council has informed Unison of its wish to consult on these changes.

### **8. RISKS AND HOW THEY WILL BE MITIGATED**

8.1 The main risk at this time is the timetable to implement a change in the constitution given that some of the parameters from regulations are not clear at this point.

### **9. TIMETABLE FOR IMPLEMENTATION**

9.1 See below and Appendix 1.

<b>Date</b>	<b>Meeting</b>	<b>Note</b>
5 December	Standards	Briefing report
20 December	MAT	Initial proposals
9 January	Briefing	Discussion of initial proposals
24 January	Cabinet	To launch consultation of initial plans
2 February	Standards	Consult on reports (Replaces 19 Jan mtg)
13 March	MAT	Final recommendations for reports
26 March	Briefing	Final recommendations for reports
17 April	Cabinet	Final recommendations for reports
26 April	Council	Decision for reports

**Report Author: Michael Graham, Head of Corporate Governance 01784 446227**

**Background Papers:  
There are none**

## Appendix 1

### Table of provisions in force (as regards Governance and Standards)

#### Provisions that came into force on 15 November 2011

<b>Provision</b>	<b>Purpose of provision</b>
Section 23	Transitional provisions: changes to local authority governance in England
Paragraphs 57 and 58 of Schedule 4 and section 26 to the extent it relates to these paragraphs	Secretary of State powers to provide for abolition of Standards Board for England.
Section 37	Transitional provision: standards

#### Provisions that will come into force on 15 January 2011

<b>Provision</b>	<b>Purpose of provision</b>
Section 25	Predetermination

**Remaining provisions will be brought into force by Order.**