

**Norwich City Council**  
**CONSTITUTION WORKING PARTY**  
**and**  
**STANDARDS COMMITTEE**

Item  
**6**

**REPORT for meeting of the standards committee to be held on  
3 February 2012**

**The Localism Act 2011 and implications for the council  
and the standards framework**

**Purpose**

This report updates the standards committee on the areas of the Localism Act 2011 that may directly impact the council, mostly around governance arrangements.

**Conclusion**

At this stage, the council needs to prioritise its work in compliance with the Localism Act proportionately in order to allow time to take account of any national, regional and county body recommendations on how to address certain issues.

**Recommendations**

- a) The constitution working party and the standards committee are requested to consider the report and in doing so identify any further areas for officer action.
- b) (i) the standards committee is recommended to request that the council resolves to move to a local code of conduct based on the seven Nolan principles and  
(ii) that the monitoring officer be delegated to work with other authorities in Norfolk in looking at the possibility of developing a shared approach to the code of conduct.

**Financial Consequences**

Some of the changes outlined in this report may impact on council resources. Any actions taken forward as a result of the requirements placed on the council will offer opportunities for changing certain ways in which we currently operate.

**Strategic Priority and Outcome/Service Priorities**

Contributes to maintaining and improving the council's reputation.

**Background papers**

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## **1. Introduction**

- 1.1 The Localism Bill was introduced by the Secretary of State for Communities and Local Government (DCLG) and given its first reading on 13 December 2010. The Bill completed its third reading in the House of Lords on 31 October 2011. The Bill received royal assent on 15 November 2011.
- 1.2 There are wide ranging implications arising out of the Localism Act for local government. Areas of activity that are affected include planning policy, administration of business rates and housing. Also there are provisions for a general power of competence, changes to the rules on predetermination in decision making and new powers to communities to bid to run council functions. The Localism Act also makes changes to the standards regime and formalises the abolition of Standards for England.
- 1.3 However, many provisions contained within the Act are not yet in force and guidance is still being awaited regarding implementation. In terms of this council formulating its response to the Act, any policy, budgetary or constitutional changes that are required will need to be formally developed and agreed via the correct decision making processes at cabinet and or council.

## **2. Governance**

- 2.1 The council is permitted by the Act to amend its structure in that the leader-executive model could be replaced, if desired, by either a committee model or what is known as prescribed arrangements. This is where a more tailor made localised model of governance could be adopted. However, this would need the approval of the secretary of state and would be subject to approval by the council and subject to a referendum. Further regulations are expected.

## **3. Predetermination**

- 3.1 The Localism Act clarifies that where a member has previously expressed a view on a matter, it does not follow that any decision or conclusion they may be party to has been predetermined. This is provided that the member does not have or appear to have a closed mind on the matter.
- 3.2 This will apply to any decision made from the 15 January 2012, and now frees up councillors to express their opinions on issues of local importance without the fear of legal challenge. Members will still need to be careful to avoid the perception of acting with a closed mind.

## **4. General power of competence**

- 4.1 Part 1, chapter 1 of the Localism Act confers a general power of competence on local authorities to undertake activities that are not otherwise prohibited either before the passage of the Act or subsequently prohibited. Introduction of the power will give councils freedom to work together to improve services and drive down costs. Also

local authorities can establish companies to undertake non-statutory activities for commercial purposes.

- 4.2 This element of the act will come into force in April 2012. Further guidance is awaited as to how these provisions will operate in practice and before the council will be able to undertake further action

## **5. The transfer and delegation of functions**

- 5.1 The Secretary of State for the DCLG will have the power to transfer a public function that would promote economic development or increase local accountability, from one authority to another with the consent of the authority to whom the public function is transferred. The transfer or delegation of functions can be devolved up or down between district to county or vice versa. Parish councils can also gain further functions where they exist through such a process.

## **6. Pay accountability**

- 6.1 The council will be required to publish a pay policy statement by 31 March. This will need to be approved by council. A pay policy statement will set out the policy towards pay of the most senior and lowest grade officers along with the relationship between the senior and lower grade salaries. Draft guidance on how to produce this policy has recently been issued by DCLG.

## **7. Council Tax**

- 7.1 Councils which proposed to set council taxes above the limit set by government each year will be required to hold a referendum to get approval from local voters. This removes the power for central government to 'cap' council tax rises that exceed this limit.

## **8. Community empowerment**

- 8.1 Councils now have a duty to 'consider' an expression of interest made by a body that expresses an interest in either providing, or assisting to provide, a council service. An expression of interest can come from a third sector organisation, voluntary group, community group or a grouping of two or more council employees. If we chose to accept this expression of interest, then a procurement exercise is triggered.
- 8.2 Guidance is awaited regarding where expressions of interest can be rejected.
- 8.3 Any preparation or revision of the council's procurement strategy will need to be carefully considered and pay regard to forthcoming guidance. The council will be required to balance bids from social enterprises versus any commercial organisations.
- 8.4 The council will subsequently have to assess its governance arrangements that should operate where social enterprise organisations may end up running council services. This may also apply relating to the

new obligations that are placed on local authorities to keep a list of community assets and land. If these are sold, community groups would have the right to bid for the land/assets.

## **9. Standards and the code of conduct**

**Please also note;** this part of the Localism Act is not in force until July 2012, and officers anticipate further information from the department of communities and local government.

- 9.1 The Localism Act requires that council's have a code of conduct in place. The code of conduct **must** be consistent with the now seven Nolan principles which replace the Ten General Principles of Public Life. (see item 5 of this agenda)
- 9.2 The Act also requires councils to publish registers of member interests, on their web-sites. The city council already does this as a matter of good practice. The council may revise its existing code if desired, or adopt a new code.
- 9.3 Arrangements also have to be in place to investigate allegations that a member may have breached the code of conduct. These arrangements also need to allow for decisions to be taken regarding such allegations.
- 9.4 These arrangements must include the appointment of at least one independent person, whose views must be sought before a decision is made. A person cannot be appointed as an independent person if they have within the last five years been a co-opted voting member of a committee of the council. We are awaiting advice as to how this will work in practice.
- 9.5 The register of member interests will continue to be maintained by the monitoring officer. The definitions on what interests will need declaration are yet to be indicated. Once the guidance has been provided the council will have to approve the content of the register scope, and any subsequent failure to declare an interest will be dealt with as a criminal offence.
- 9.6 These changes will mean that we will have to review the current code of conduct, and revise/update our guidance on how allegations should be investigated. It will also mean that the role of the standards committee will also need to be revised as part of the council's update of the constitution.
- 9.7 There will now be greater scope to enable the monitoring officer to seek local resolution of a complaint before a decision is taken as to whether any complaint made regarding a members conduct in relation to the code merits investigation.
- 9.8 The Act gives authorities no explicit powers to take any action in respect of a breach of the local code of conduct. Local authorities have not been given powers to impose alternative sanctions, such as requiring an apology or training.

- 9.9. Other than naming and shaming the individual the member concerned, it is as yet unclear whether the authority can take any action, beyond administrative actions. However, the introduction of the general power of competence will potentially address these gaps.