

**Report of the City Solicitor**

**Report to Full Council**

**Date: 11<sup>th</sup> July 2012**

**Subject: New standards arrangements under the Localism Act 2011**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. On the 6<sup>th</sup> June 2012 Grant Shapps, the Minister of State at the Department for Communities and Local Government signed The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012. The Order stipulates the date on which various provisions of the Localism Act come into force. These include provisions in respect of the Authority adopting a Members' Code of Conduct, putting in place arrangements for the receipt and consideration of complaints, and making Standing Orders – all of which commenced on the 7<sup>th</sup> June 2012.
2. A consequence of the way in which the Order has been drafted is that there is some doubt as to whether the decision of Council made at the Annual Council Meeting is valid. These concerns have been raised with DCLG, and, whilst DCLG have stated that - "it is entirely reasonable for Leeds to proceed with the decision taken on 21 May" - there is some residual risk of challenge that the arrangements have not been approved in accordance with the Order.
3. Therefore the purpose of this report is to ask that Council ratify the decision previously made at the Annual Council Meeting in relation to new conduct arrangements for Members under the Localism Act 2011. The arrangements previously agreed by Council, and presented for ratification in this report are as follows:
  - A Members' Code of Conduct (now updated following Regulations which define a disclosable pecuniary interest) – at Appendix 1
  - Terms of Reference for a Standards and Conduct Committee – at Appendix 2

- Procedure Rules for the handling of complaints that a Member may have failed comply with the Code of Conduct – at Appendix 3

## **Recommendations**

4. Full Council is asked to ratify the arrangements previously agreed at the Annual Council Meeting and attached as appendices 1, 2 and 3.

### **1 Purpose of this report**

- 1.1 The purpose of this report is to ask that Council ratify the decision previously made at the Annual Council Meeting in relation to new conduct arrangements for Members under the Localism Act 2011.

### **2 Background information**

- 2.1 The Localism Act 2011 (the Act) requires a relevant authority to promote and maintain high standards of conduct by members and co-opted members of the authority. As part of this duty a relevant authority must adopt a code of conduct dealing with the conduct that is expected of members and co-opted members of the authority, make arrangements for how allegations of a failure to comply with the code can be investigated, and formulate standing orders.
- 2.2 Members will recall that the Annual Council Meeting, on the 21<sup>st</sup> May 2012, approved arrangements to enable the authority comply with these duties and the Government's timetable for commencement on the 1<sup>st</sup> July 2012.

### **3 Main issues**

- 3.1 Since the Annual Council Meeting Grant Shapps, the Minister of State at the Department for Communities and Local Government, has signed The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012. The Order stipulates the date on which various provisions of the Localism Act come into force. These include provisions in respect of the Authority adopting a Members' Code of Conduct, putting in place arrangements for the receipt and consideration of complaints, and making Standing Orders – all of which commenced on the 7<sup>th</sup> June 2012.
- 3.2 A consequence of the way in which the Order has been drafted is that there is some doubt as to whether the previous decision of Council is valid. These concerns have been raised with the Deputy Director of Democracy at DCLG by the Head of Governance Services. In particular clarification has been sought as the wording of the Order suggests that Council had no powers (at the ACM) to adopt a Code of Conduct consistent with the requirements of the Localism Act, or to adopt arrangements for investigations to be carried out, prior to the day after the Order was made (i.e. prior to the 8<sup>th</sup> June).
- 3.3 The Deputy Director's office has replied as follows;  
  
"I am pleased to note that Leeds City Council has moved ahead in adopting a new code of conduct in line with the provisions in the Localism Act 2011. I can assure you that it is not the intention of the provisions in Commencement Order 6

to render any decision taken on adopting a new code of conduct taken prior to the Commencement Order bringing the standards provisions into force ultra vires. Rather, while we considered that local authorities already had the power to, for example, adopt a new code of conduct in preparation for the new standards arrangements coming into force on 1 July, the commencement of certain parts of the Act prior to 1 July was intended to provide assurance for any local authorities that had not yet made preparations for the new arrangements by putting it beyond doubt that they could do so.

That being the case, it is entirely reasonable for Leeds to proceed with the decision taken on 21 May.”

3.4 Whilst providing some degree of reassurance, the City Solicitor’s view is that the assurance is not definitive and there remains a greater (though not great) risk of proceeding without the further ratification, by Full Council of the decision made at the Annual Council Meeting.

3.5 Therefore Council is asked to ratify the decision previously made at the Annual Council Meeting in relation to new conduct arrangements for Members under the Localism Act 2011. The arrangements previously agreed by Council, and presented for ratification in this report are as follows:

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## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 The Department of Communities and Local Government has been consulted on the implications of the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 on decisions already taken by Full Council. Their response is included within this report.

4.1.2 The Leader of Council, the Chair of the Standards and Conduct Committee and City Solicitor have been consulted on issues raised and are supportive of seeking Council’s ratification of the decision made at the Annual Council meeting.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

4.2.2 Equality and diversity issues are addressed by the principles of selflessness, objectivity and leadership and by the associated explanations.

### **4.3 Council policies and City Priorities**

- 4.3.1 The proposed new standards arrangements are consistent with the principles in the Code of Corporate Governance, particularly principle three “Good Conduct and Behaviour”.

### **4.4 Resources and value for money**

- 4.4.1 There are no additional issues arising to those already considered by Council.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The wording of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 suggests that Leeds City Council had no powers to adopt a Code of Conduct consistent with the requirements of the Localism Act, or to adopt arrangements for investigations to be carried out, prior to the day after the Order was made. However, Leeds City Council agreed both a Code of Conduct and a ‘Procedure for handling complaints’ at the Annual Council Meeting on 21<sup>st</sup> May 2012, to come into force on 1<sup>st</sup> July 2012 (or whenever Chapter 7 of the Localism Act 2011 came into force).
- 4.5.2 Given the very unexpected wording of the Commencement Order, and the uncertainty of the validity of the Council’s previous decision that have subsequently arisen, views have been sought from the DCLG as to whether it is reasonable for the Authority to proceed with the decision taken on 21<sup>st</sup> May 2012, or, whether the decision needs to be retaken or ratified by full Council at some point following the day after the Commencement Order is made.

### **4.6 Risk Management**

- 4.6.1 Whilst expressing support for the approach adopted by Leeds City Council, DCLG have been unable to provide an unequivocal assurance that the wording of the Commencement Order does not put at risk the validity of the decision taken at the Annual Council meeting.

## **5 Conclusions**

- 5.1 In order to fully mitigate any risk of future challenge Full Council are asked to ratify the decision previously made at the Annual Council Meeting in relation to new conduct arrangements for Members under the Localism Act 2011.

## **6 Recommendations**

- 6.1 Full Council is asked ratify the decision previously made at the Annual Council Meeting in relation to new conduct arrangements for Members under the Localism Act 2011. The arrangements previously agreed by Council, and presented for ratification in this report are as follows:
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## **7 Background documents<sup>1</sup>**

7.1 The Localism Act 2011

7.2 The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012

7.3 The Relevant Authorities (Disclosable Pecuniary Interests) Order 2012

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.