

## Standards

# An overview of the Standards Regime under the Localism Act 2011

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# 2012 Changes

- Standards for England ceased to exercise regulatory functions on 31 January 2012
- Abolished on 31 March 2012
- New regime came into force on 1 July 2012 under Localism Act



# What disappeared in 2012?

- The former Members' Code of Conduct
- Members' undertakings to comply with the Code no longer required
- Requirement for a statutory Standards Committee with power to suspend councillors
- Requirement for independent members on Standards Committee
- Existing regulatory framework for dealing with complaints, including initial assessment and review sub-committees



# Duty to promote high standards of conduct

- All Councils must promote and maintain high standards of conduct by elected and co-opted members when acting in that capacity
- The Council's Code does not apply to conduct in a private capacity, although imprisonment for 3 months or more for a criminal offence results in disqualification as a Councillor



# Code of Conduct (1)

- **Councils were required to adopt a new Code dealing with the conduct that is expected of members**
- **Form of code not prescribed but it must be consistent with the seven Nolan principles:**
  - Selflessness, Honesty, Integrity, Objectivity, Accountability, Openness and Leadership.
- **Wycombe DC adopted its new Code in July 2012**



# Code of Conduct (2)

- **The form of Code is not prescribed but it must contain 'appropriate provisions' for the registration and disclosure of:**
  - Pecuniary interests
  - Other interests
- **Pecuniary Interests are defined by 2012 Regulations**
- **A councillor who is a member of more than one Council will be subject to different codes**


# Wycombe DC's Code

- Part 5A of the Council's Constitution
- Applies when you are acting in your capacity as a member
- This includes: attending meetings, briefings with officers and site visits; acting as Council's representative; taking any decision as a Councillor; and in any non-private correspondence




# General Conduct (1)

## You must:

- Provide leadership by personal example
  - Respect others and not bully any person
  - Observe the Council's Member-Officer Relations Protocol
  - Respect confidentiality of information which you receive as a member
  - Not behave in a way which is likely to bring the Council into disrepute
  - Use your position as a member in the public interest and not for personal advantage
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# General Conduct (2)

## You must:

- Accord with the Council's rules on the use of public resources for private and political purposes
  - Exercise your own independent judgment, taking decisions for good and substantial reasons, giving weight to all relevant considerations and paying due regard to the advice of officers (in particular the statutory officers) and stating the reasons for your decisions where necessary
  - account for your actions
  - ensure that the Council acts within the law
  - When dealing with planning matters, observe the Council's Code of Good Practice for Planning Matters
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# WDC's Code: Disclosable Pecuniary Interests ('DPIs')

## You must:

- Register the DPIs of yourself and of your partner within 28 days of adoption of the Code (failure to register a DPI is also a criminal offence)
- Register, disclose and withdraw from participating in any matter where you have a DPI (failure to disclose a DPI is also a criminal offence)
- Ensure your Register is kept up to date and notify MO of any change within 28 days of any change
- Declare the existence of any DPI at meetings you attend where the business affects or relates to that interest

# What are Disclosable Pecuniary Interests?

- Employment, office, trade, profession or vocation
- Sponsorship
- Contracts with the Council
- Interests in land in the Council's area
- Licenses to occupy land in the Council's area
- Council tenancies
- Interests in shares of a body operating in the Council's area exceeding £25k or one hundredth of the total issued share capital



# WDC's Code: Other Interests

At any meeting you must **declare** any interest which is not a DPI, i.e.

- Where a decision in relation to an item of business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or any person, body or organisation with **whom you have a close association** to a greater extent than it would affect the majority of the Council tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Council's administrative area, or
- Where it relates to or is likely to affect any of your DPIs, but **in respect of a member of your family (other than a partner) or a person with whom you have a close association**

Where you have an Other Interest you do not have to withdraw. The requirement is for the purposes of transparency

# WDC's Code: Gifts and Hospitality

- You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality worth more than £50
- MO will place this on a public register
- Duty to notify the MO does not arise where the gift comes within any description approved by the Council for this purpose



# Complaints Arrangements (1)

- **WDC is also required to have:**
  - “arrangements” for investigation of complaints
  - arrangements under which decisions on allegations can be made

including complaints against parish councillors
- **Independent Person must be consulted before certain decisions are made**

# Complaints Arrangements (2)

- WDC has a voluntary Standards Committee
- The Arrangements give more scope for delegating straightforward decisions to the Monitoring Officer
- Complaints can be dismissed at the outset, e.g. where events took place more than 6 months ago, or no evidence that the Code has been breached
- Emphasis on seeking local resolution rather than formal investigation where possible: member is given 20 working days to respond
- Monitoring Officer then decides, using referral criteria and in consultation with Independent Person, whether or not the complaint should be investigated

# Complaints Arrangements (3)

- If complaint requires formal investigation, it is referred to an external Investigating Officer
- If IO finds no evidence of failure to comply with the Code, that is the end of the matter
- If IO finds evidence of failure to comply with Code, MO **either** refers the matter to Hearings Panel (comprised of 3 members of Standards Committee) **or** seeks local resolution in consultation with Independent Person



# Sanctions (1)

- The Localism Act provides no power to impose sanctions e.g. apology or training
- No power to suspend Councillors
- No power to impose sanctions on Parish or Town Councillors



# Sanctions (2)

- **Limited range of actions now available**
  - Censure or reprimand and adverse publicity
  - Recommendation of removal from Cabinet, Committee or from outside appointments
  - Bar from offices to ensure no disruption to administration of Council's affairs
  - Cannot do anything that would prevent a Councillor performing duties as a Councillor




# The Independent Person

- WDC must appoint one or more Independent Persons
- Cannot be a friend or relative of a member or officer
- Independent members of the former Standards Committee are no longer eligible
- Can be paid a fee and/or expenses



# The Role of the Independent Person

- **Must** be consulted and views taken into account before authority takes a decision on any allegation it has decided to investigate
  - May be consulted by Council at any other stage
  - May be consulted by a member against whom an allegation has been made
  - Two IPs are appointed so as not to compromise impartiality
  - Advisory role only
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# Predetermination

- Applies to decisions taken after 15 January 2012
- A decision maker is not to be assumed to have a “closed mind” just because he or she has previously expressed his/her view on a matter and the matter is relevant to the decision
- However members **still** must not have a closed mind when casting their vote



**Questions?**





# Thank you

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