

PREESALL TOWN COUNCIL
11 JUNE 2012

THE CODE OF CONDUCT

The Localism Act 2011 makes a number of changes to the Standards regime and the Code of Conduct. These changes are due to take effect on 1 July 2012.

Standards for England

Standards for England was abolished on 31 March 2012. Oversight of the standards regime now passes to the principal authority, Wyre Council.

Standards Committee

The current Standards Committee includes both parish and independent members. The Act requires the Standards Committee to be composed of only borough councillors. Parish councillors may be co-opted to provide advice but will have no voting rights. There must be at least one independent member who must be consulted and his/her views taken into account before Wyre Council takes a decision on a complaint it has decided to investigate. A councillor who is the subject of a complaint may also consult the independent person.

Complaints

Wyre Council will be responsible for investigating and deciding code of conduct complaints which relate to parish councillors in their area (parish councils cannot investigate and determine code complaints). If Wyre Council decides that a member or co-opted member of a parish council has breached its code of conduct, the parish council cannot take any action itself.

The Act does not specify what sanctions can be imposed in respect of the breach. A member cannot be suspended or disqualified from office and the 2011 Act contains no express powers to impose alternative sanctions, such as requiring a member to apologise or attend training. Other than censuring or naming and shaming, Wyre Council cannot enforce sanctions in respect of members of parish councils in their area.

Register of Interests

The requirement to register interests remains although, as mentioned above, the regulations defining interests have not yet been made. Wyre Council must also publish the register of interests of parish councillors on its website and a parish council with a website must publish the register of interests of its councillors.

Councillors must notify the Clerk of any "disclosable pecuniary interests" within 28 days of becoming a member or co-opted member and, on re-election or re-appointment, must also notify the Clerk within 28 days of any such interests not already included in his or her register of interests.

Councillors may ask the Monitoring Officer to exclude from his/her register of interests sensitive interests which may include disclosable pecuniary interests the details of which, if disclosed, might lead to a threat of violence or intimidation to him/her or to a person 'connected' with him/her.

Disclosure of interests at meetings

If a councillor is aware that he/she has a disclosable pecuniary interest in a matter, he/she is barred from participating in any discussion or voting on the matter at the meeting. Participation in the discussion or voting on that matter is a criminal offence under s.34. Members of the public attending meetings might not be aware of a member's interest in a matter under debate unless he/she had also previously inspected the authority's register.

If a councillor is aware of a "disclosable pecuniary interest" in a matter under consideration at a meeting but such interest is not already on or in the process of being included on the register the councillor must disclose the disclosable pecuniary interest to the meeting and register it within 28 days of the meeting at which relevant business is considered.

Dispensations

A councillor with a disclosable pecuniary interest may submit a written request to the proper officer at the parish council for the parish council to grant a dispensation to relieve him/her of the restrictions in relation to participation in a discussion or vote on a matter in which he/she has a disclosable pecuniary interest. A parish council may grant a dispensation if having had regard to all relevant circumstances, it considers that;

- a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- b) granting the dispensation is in the interests of persons living in the authority's area.
- c) it is otherwise appropriate to grant a dispensation.

Code of Conduct

The current Model Code of Conduct will be repealed with effect from 1 July 2012 and councillors will no longer have to give an undertaking to comply with a Code.

However, the Council has to adopt a new Code of Conduct governing the conduct of elected and co-opted Members' when acting in their official capacity. That Code must be consistent with the Nolan principles of conduct in public life which are selflessness, integrity, objectivity; accountability; openness; honesty; and leadership and must include provisions in respect of the registration and disclosure of 'pecuniary interests' (**where failure to do so will be a criminal offence** potentially carrying a Scale 5 fine of £5000 and/or disqualification for up to five years.) and 'interests other than pecuniary interests' interest (where failure to disclose would not be a criminal offence but could provide grounds for a challenge to a decision). However, the Secretary of State has not yet published the regulations in respect of pecuniary and non-pecuniary interests

Wyre Council considered a revised Code of Conduct at its Standards Committee on 29 May 2012 and has indicated that it will consider any possible local restrictions when the Regulations have been made. However, discussion at the last meeting of the Wyre Area Committee of LALC identified a desire for there to be a common code of conduct for all town and parish councils in the Wyre area and the Clerk agreed to work with the Secretary and others to draft such a code when both Wyre's code, NALC's proposed code and all the regulations are in place.

In order to ensure that the Council has a Code of Conduct in place by the due date (1 July 2012) it is proposed that Preesall Town Council adopts, for the time being, its current Code of Conduct with the addition of the seven Nolan principles identified above.