**STANDARDS TRAINING FOR PARISH COUNCILLORS**

**Council Offices, Harrogate - 6 July 2016**

***Course Outline***

**Introduction**

* Localism Act 2011 – set out duty of local authorities to promote and maintain high standards of conduct by Members – applies to parish councils
  + Replaced the Standards Board regime in 2012
  + Councils to decide their own arrangements but must adopt a code
  + National rules about councillors’ pecuniary interests
* General Principles of Public Life – apply to all those who hold public office
* Code of Conduct will:
  + Set out what is expected in terms of conduct from councillors & co-opted members
  + Protection from malicious complaints
  + Give the public confidence in local councillors

**Localism Act 2011**

* Abolished local government standards board for England
* Requirement for local authorities to promote and maintain high standards of conduct
* Introduction of local codes of conduct and local responsibility for investigating alleged breaches of the code
* Requirements concerning how local codes of conduct should treat the registration and disclosure of pecuniary and other interests
* Creation of a new criminal offence of failing to comply with the statutory requirements for disclosure of pecuniary interests

**Principles of Public Life**

*(a) Selflessness:* Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person or in order to gain any personal financial or other material benefits.

*(b) Integrity:* Councillors should not behave improperly and should avoid the appearance of having done so. Councillors must reach their own conclusion on issues, though they may take others’ views into account.

*(c) Objectivity:* Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

*(d) Accountability:* Councillors should be accountable to the public for their actions and should co-operate fully with any scrutiny appropriate to their particular office.

*(e) Openness:* Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions. They should restrict information only when the wider public interest demands.

*(f) Honesty:* Councillors have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

*(g) Leadership:* Councillors should promote and support these principles by leadership, and by example.

**Role of Harrogate Borough Council**

* NOT to regulate parish councils – each parish council is its own accountable body
* HBC Monitoring Officer is the Monitoring Officer for all Councils in the District
* Has its own Code of Conduct which can be adopted by parish councils
* Must have in place arrangements for investigating and determining alleged breaches of the Code of Conduct by parish councillors
* Publishes Register of Interests
* Provides advice and training to parish councils

**Code of Conduct**

* All local authorities, including parish councils, must adopt their own Code of Conduct
* Parish councils can chose to adopt the Code of Conduct of their principal authority, alternatively Model Codes are available from LGA, DCLG and NALC
* must be based on the Principles of Public Life
* must contain:
  + registration and declaration of pecuniary interests
  + registration and declaration of interests other than pecuniary interests
* applies equally to elected and co-opted Members
* applies whenever acting as a Councillor

**Members’ Interests**

* must declare Disclosable Pecuniary Interests within 28 days of taking office
* What is a DPI? Financial or business interests as defined in regulations as follows – details of each must be given

1. Employment office, trade, profession or vocation carried on for profit or gain
2. Sponsorship - any payment or provision made in relation to expenses incurred eg political party or trade union (but not those from your council)
3. Securities – shares in a body in the area of the parish council exceeding £25k
4. Contracts – between the individual and the parish council
5. Land in the area of the parish council – including place of residence
6. Corporate tenancies
7. Licences to occupy land

* Applies to interests of spouse or partner, but do not need to differentiate from Member’s own interests or include their name

**Register of Interests Form**

* Must complete and return to Clerk within 28 days
* Clerk must keep a copy on deposit in the parish and publish on parish council website (if there is one)
* Clerk must forward completed forms to HBC Monitoring Officer who must keep a copy on deposit and publish on HBC website
* Form also requests details of “other interests”, including membership of other bodies
* If you declare an interest at a meeting which is not recorded in the register you should notify the Monitoring Officer within 28 days

**Sensitive Interests**

* Where the Member and Monitoring Officer consider disclosure of an interest could lead to the Member being subject to violence or intimidation the published version and the version made available for inspection must not include details of that interest (Localism Act Section 32(2))
* Details must still be declared to the Monitoring Officer
* Where a matter relating to a sensitive interest is considered at a meeting the Member must disclose the fact they have a Disclosable Pecuniary interest but not the nature of it

**When is Information Removed from the Register?**

* When a Member ceases to have an interest - the parish clerk must be notified within 28 days
* When a Member ceases to be a Member of a parish council

**Participation in Meetings**

DPI’s – when a Member attends a meeting at which business in which they have a DPI is to be considered they must declare the existence and nature of the interest

* + Must not take part in the discussion or vote
  + Local Standing Orders will determine whether the Member must leave the room

“Other interests” – where previously included on the Register of Interests form do not need to be disclosed at the meeting

Interests where participation or voting might be seen as conflicting with Principles of Public Life must be declared and treated as though they were a DPI (cease to participate in discussion and leave the room)

**Dispensations**

The rules allow an authority to grant a dispensation in certain circumstances, which will permit a Member to take part in a discussion and vote even if they have a DPI. The circumstances include:

* Without dispensation so great a proportion of the council would be prohibited from participating in an item that it would impede the council’s business
* Without dispensation the political balance could be affected and alter the likely outcome of any vote
* Granting of a dispensation is in the interest of the people living in an area
* Without the dispensation each Member of the Executive would be prohibited from participating in an item
* It is otherwise appropriate to grant a dispensation

**Dispensations (cont)**

* If a Member would like a dispensation they must make a request in writing to the Proper Officer
  + For parish councils this would be the parish clerk
  + There may be a standard form to complete
* Requests must be made as soon as possible before a meeting
* Some parish councils have dispensations as a standing item on the agenda
* Application may be made at a meeting if the DPI has only just become apparent
* Who can grant a dispensation?
  + Full parish council
  + Or the parish council can make a resolution to delegate it to the parish clerk
* In reaching a decision the following will be taken into account:
  + Nature of Member’s interest
  + The need to maintain public confidence in the conduct of Members
  + The possible outcome of the proposed vote
  + The need for efficient and effective conduct of business
  + Any other relevant circumstances
* Dispensations may be granted:
  + For one meeting
  + For a period of time not exceeding four years
* Any Member granted a dispensation:
  + Must declare the nature and existence of the interest before the commencement of any business to which it relates
  + A copy of the dispensation must be kept with the Register of Councillors interests

**Offences and Sanctions**

What happens when the rules are not followed?

It is a criminal offence to:

* fail to register a DPI within 28 days of
  + election/re-election
  + an item arising in a meeting which is relevant to the DPI
* fail to disclose the existence of a DPI in a matter being considered at a meeting
* speak or vote when you have a DPI
* provide false or misleading information

Sanctions

* a fine of up to Level 5 (£5000)
* disqualification from the relevant authority for up to 5 years

**Complaints against Members**

* Complaints should be made to the HBC Monitoring Officer - use the complaint form on the HBC website
* The Monitoring Officer considers whether the complaint merits formal investigation
* If it merits formal investigation an Investigating Officer is appointed
* Arrangements for investigation must include an Independent Person
* Informal resolution will be sought to complaints where appropriate

**Independent Person**

* The authority must appoint at least one Independent Person
* A person who has applied for the post, following advertisement of a vacancy, and appointed by majority vote at Council
* Their views can be sought at any stage of the process
* Their views must be sought by the authority before it takes a decision on an allegation that has been investigated
* Their views can be sought by the Member against whom an allegation has been made
* Source of advice during an investigation, but will not express an opinion unless and until it reaches a Hearing Panel
* Mr Alan Mitcheson 07770 2722931

**Investigation of Allegations**

* Monitoring Officer will review every complaint and decide in 14 days if it merits formal investigation
* If it seems likely a criminal offence has been committed will notify the police
* Investigation will seek to establish if there has been a failure to comply with the Code of Conduct
* Investigation will be carried out in consultation with the Independent Person
* If no evidence of a failure to comply with the Code of Conduct is found there will be no further action

**Action taken**

If evidence is found of a failure to comply with the code:

1. Local resolution – apology or remedial action
2. Standards Hearing Panel – where a local resolution is not appropriate or a Member is not prepared to undertake proposed remedial action
   * Comprises three Members of General Purposes Committee and the Independent Person(as consultee not Panel member)
   * Makes a decision as to whether the Member failed to comply with the Code of Conduct and actions it proposes to recommend to the parish council
   * Possible actions include censure or reprimand, publishing of findings, recommendations of further training, recommendations as to removal from outside appointments, recommendations as to withdrawal of facilities etc
   * No power to suspend, disqualify or withdraw allowances
   * There is no right of appeal but can complain to the Ombudsman

**Conclusions**

Ensure your Parish Council has adopted a Code of Conduct

Ensure your register of interests is up to date

Act in accordance with your Code

These arrangements will

* promote and maintain high standards of conduct
* protect Councillors
* give the public confidence

**Questions**