EXPLANATORY MEMORANDUM TO

THE LOCAL ELECTIONS (DECLARATION OF ACCEPTANCE OF OFFICE) ORDER 2012

2012 No. 1465

1. 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order prescribes the form of the declaration of acceptance of office that a member of a local authority is required to make to hold office.

3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 83 of the Local Government Act 1972 provides that a person elected as chairman, vice-chairman, councillor or elected mayor of a county, district or London borough must make a declaration of acceptance of office in a form prescribed by the Secretary of State by order and deliver that declaration to the proper officer of the authority within two months of election. If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected becomes vacant.

4.2 Section 83(4) makes similar provision for a person elected to the office of chairman of a parish council or parish councillor.

4.3 Article 3 of the Order revokes the Local Elections (Declaration of Acceptance of Office) Order 2001. That Order referred to the mandatory provisions of a model code of conduct made under section 50(1) or 51(5) of the Local Government act 2000. Those provisions have been repealed by section 26 of and Schedule 4 to the Localism Act 2011.

5. Territorial Extent and Application

5.1 This instrument applies to in relation to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Government's Coalition Agreement 'Our Programme for Government' contained the commitment that 'We will abolish the Standards Board regime'.

7.2 The Government considers that the Standards Board regime, including a model code of conduct which all local authorities in England must follow and their members give an undertaking to abide by, standards committees with the power to suspend a local authority member if they determined there has been misconduct, and regulated by a central non departmental public body, the Standards Board for England, was inconsistent with the principles of localism, where decisions and responsibility should lie at the lowest appropriate level.

7.3 The Local Government Act 1972 requires that local authority members must, within two months of election, make a declaration of acceptance of office.

7.4 To implement the Government's policy, the Localism Act 2011 makes provision for the abolition of the 'Standards Board regime', including the model code. Under that Act new local standards arrangements for local authorities are introduced on 1 July and with these arrangements there is no provision for the centrally prescribed declaration of acceptance of office to contain reference to any code of conduct.

7.5 Accordingly, the declaration of acceptance of office must be modified to remove reference to the code of conduct.

8. Consultation outcome

8.1 The policy proposal to abolish the Standards Board regime was announced in the Coalition Agreement 'Our Programme for Government. As a Coalition Agreement commitment, no consultation was undertaken. However the policy received scrutiny by debate during passage through both Houses of Parliament.

9. Guidance

9.1 This order is self explanatory and there is no intention to issue guidance.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department for Communities and Local Government will undertake a post implementation review of the policy to abolish the Standards Board regime 3-5 years after policy implementation. The review is intended to be a proportionate check that legislation, including the abolition of the Board and the establishment of new, local arrangements for local authority standards, is operating as expected.

12.2 Monitoring arrangements will include a survey, by the Department, of local authorities to ascertain the arrangements in place to uphold standards of councillors, and a survey, by the Department, of councillors and citizens to understand their attitudes towards the new arrangements for upholding standards, and their perceptions of standards of councillors.

13. Contact

13.1 Steve McAllister at the Department for Communities and Local Government Tel: 0303 44 42582 or email: stephen.mcallister@communities.gsi.gov.uk can answer any queries regarding the instrument.