

Report to: **Standards Committee**

Date: **13 April 2011**

Title of report: **Future of the Local Standards Framework**

By: **Director of Governance and Community Services**

Purpose of report: **To provide an update on the future of the Local Standards Framework.**

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**RECOMMENDATION: The Standards Committee is recommended to note the report**

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**1. Financial Implications**

1.1 There are no material financial implications to this report.

**2. Background information**

2.1 The Government announced in the Queen's Speech on 25 May 2010 that the Decentralisation and Localism Bill would include proposals to 'abolish the Standards Board regime'. No further details were available at the time.

2.2 On 20 September 2010 the Department for Communities and Local Government (DCLG) published an announcement that "the whole Standards Board regime consisting of a centrally prescribed code of conduct, standards committees with the power to suspend councillors and an unelected central body will be axed in the upcoming Localism Bill". The DCLG's announcement also advised that in place of the current Standards Board regime the Coalition Government would introduce legislation "to ensure that if a councillor is corrupt and abuses their office for personal gain they will be dealt with in the criminal courts".

2.3 On 13 December 2010 the Coalition Government introduced its Localism Bill to the House of Commons. Clauses 14-20 (inclusive) and Schedule 4 of the Localism Bill provide more information as to the Government's proposals in relation to the future of standards in local government.

**3. Abolition of the Standards Board regime**

3.1 Clause 14 and Schedule 4 of the Localism Bill implement the Coalition Government's promise to abolish the Standards Board Regime in England. (The Standards Board Regime for Wales is not to be abolished under the Localism Bill and will continue to operate as at present). Schedule 4 of the Localism Bill contains the amendments to existing legislation that will be required in order to abolish the current Standard Boards Regime in England that was introduced by the Local Government Act 2000 (LGA 2000), and which currently consists of:-

- A mandatory Model Code of Conduct for members of local authorities;
- Standards Committees of local authorities;
- The Standards Board for England; and
- The jurisdiction of the First Tier Tribunal in relation to local government standards in England

3.2 If Clause 14 and Schedule 4 of the Localism Bill are brought into force into their current form then:-

- None of the functions of the Standards Board for England are to be preserved;
- The power for the Secretary of State to issue a Model Code of Conduct and to specify principles to govern the conduct of members of the Council is

to be removed together with the requirement for the Council to establish a Standards Committee;

- The First Tier Tribunal will lose its jurisdiction over local authority member conduct issues.

3.3 One of the amendments to existing legislation contained in Schedule 4 of the Localism Bill relates to Section 3A of the Local Government and Housing Act 1989 which deals with the grant and supervision of exemptions from political restrictions on Council officers. Currently it is the Council's Standards Committee that must consider any application for exemption from a political restriction. Under the Localism Bill the role of the Standards Committee in relation to determining exemptions from political restrictions is passed to the Head of Paid Service.

3.4 The abolition of the Standards Board for England and revocation of the mandatory Code of Conduct for members of local authorities will take place on a date to be appointed by the Secretary of State. In the meantime, allegations of misconduct can be brought against a member of the Council up to the date when Section 57A of the LGA 2000 (the right to make a written allegation that a member has failed to comply with the Council's Code of Conduct) is repealed.

3.5 Clause 20 of the Localism Bill gives the Secretary of State the power to make transitional provisions in relation to the abolition of the Standards Board regime.

#### **4. Duty to promote and maintain high standards of conduct**

4.1 Clause 15(1) of the Localism Bill imposes a statutory duty on the Council to "promote and maintain high standards of conduct by members and co-opted members" of the Council.

4.2 The question of what constitutes the "high standards of conduct" that the Council is under a duty to "promote and maintain" among its members and co-opted members is not addressed with Clause 15 of the Localism Bill, and appears to be left open for the Council to determine.

#### **5. Voluntary Codes of Conduct**

5.1 Clause 16(1) of the Localism Bill provides that the Council may decide to adopt a "voluntary code of conduct" dealing with the conduct that the Council expects of members and co-opted members of the Council when they are acting in their official capacity.

5.2 Insofar as the Council's existing mandatory Members' Code of Conduct is concerned, Clause 16(2) of the Localism Bill provides that the Council may decide:-

- To revise its existing mandatory Members' Code of Conduct and adopt this revision as the Council's voluntary Members' Code of Conduct;
- To adopt a new voluntary Members' Code of Conduct to replace its existing mandatory Members' Code of Conduct, or
- To withdraw its existing mandatory Members' Code of Conduct without replacing it.

5.3 If the Council were to decide to adopt a voluntary Members' Code of Conduct, then Clause 16(3) of the Localism Bill provides that, if a written allegation is made to the Council that a member or co-opted member of the Council has failed to comply with the Council's voluntary Member's Code of Conduct, the Council must:-

- Consider whether it is appropriate to investigate the allegation, and
- If the Council decides that an investigation is appropriate, investigate the allegation in such manner as the Council thinks fit.

5.4 Clause 16(4) of the Localism Bill provides that, if the Council were to adopt a voluntary Members' Code of Conduct, then if the Council were to find that a member or co-opted member had failed to comply with the Council's voluntary Members' Code of Conduct, then the Council may have regard to this failure in deciding:-

- Whether to take action in relation to the member or co-opted member, and

- What action to take.

Clause 16(4) of the Localism Bill does not, however, provide for any “relevant authority” that decides to adopt a voluntary Members’ Code of Conduct with an express power to impose any particular sanctions on members who fail to comply with a voluntary Members’ Code of Conduct. This is unlike the current Standards Regime, which provides the following sanctions:

- Censure of the Member
- Full or partial suspension either for a specified period of time (not exceeding six months) or until the member has met a requirement set by the Standards Committee (written apology, training or conciliation);
- Restriction of the member's access to Council premises or use of Council resources;
- Requirement to submit a written apology;
- Requirement to undertake training;
- Participation in conciliation.

The Council would have what sanction it impose, which was within its powers.

## **6. Disclosure and Registration of Members’ Interests**

6.1 Clause 17 of the Localism Bill provides that the Secretary of State may make regulations requiring the Council’s Monitoring Officer to establish and maintain a “Register of Members’ Interests” of the Council’s members and co-opted members.

6.2 These regulations may make provision:

- (a) Specifying the financial and other interests that are to be registered in the Register of Members’ Interests;
- (b) Requiring any member or co-opted member who has an interest of a specified kind to disclose that interest before taking part in business of the Council relating to the interest;
- (c) Preventing or restricting the participation of a member or a co-opted member of the Council in any business of the Council to which an interest disclosed by the member in accordance with paragraph (b) above relates;
- (d) For the Council to grant dispensations in specified circumstances from a prohibition imposed in accordance with paragraph (c) above;

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Local Members: All

Background Documents: None