

STANDARDS COMMITTEE

28 SEPTEMBER 2011

UPDATE ON THE PROVISIONS OF THE LOCALISM BILL AND STANDARDS

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Summary

The government has published the Localism Bill, which, amongst many other matters, proposes changes to the standards regime within local authorities. This report is to update members on the progress of the Bill and to provide some advice about future options.

1. Budget and Policy Framework

- 1.1 The role of the Standards Committee is to promote and maintain high standards of conduct by Councillors, co-opted members and church and parent governor representatives serving on the Children and Adults Overview and Scrutiny Committee.
- 1.2 In order to fulfil this role effectively the Committee needs to be up to date with latest proposals on how standards will be enforced within local authorities in the future.

2. Background

- 2.1 The government presented the Localism Bill to Parliament on 13 December 2011. The Bill is currently in its Report Stage in the House of Lords, which will continue in to October. It will then have its third reading in the House of Lords before the amendments proposed by the House of Lords are considered by the House of Commons. The provisions regarding standards have not been significantly changed through the Parliamentary procedure to date.
- 2.2 Once both Houses have agreed the wording of the Bill it will move forward to Royal Assent. Given the current stage of the Bill it is unlikely that it will receive Royal Assent before the very end of 2011 /beginning of 2012. The present standards regime will continue to operate until a fixed day after the Bill is given Royal Assent. However, some of the provisions relating to standards require secondary legislation (statutory instruments) and drafts of these have not yet been published.
- 2.3. Until any further legislation is passed, the current standards regime will remain in being, with the Standards Committee continuing in its role of local filtering

and hearing of complaints against councillors relating to alleged breaches of the Member Code of Conduct.

3. Proposed Changes to Standards

3.1 Overview

The proposals to the standards regime are aimed at deregulating standards across the country, allowing authorities to adopt their own provisions to regulate members' conduct, with serious matters being criminal offences.

Local authorities will have a general duty, under the Localism Bill, to promote and retain high standards of conduct by Members and Co-opted Members.

3.2 Future of Standards Committees

The requirement to have a separate standards committee will be abolished. Standards will be (if the Localism Bill is enacted in its present form) a matter for Council, not an executive function, and so any committee the Council chooses to retain will be appointed by the Council. Such committees may have independent members, but there is no provision in other legislation which gives independent members voting rights. Other than as part of the current standards regime (which is to be abolished) voting rights for persons who are not councillors are only permitted for certain Overview & Scrutiny Committees.

There are proposals coming forward to require Audit Committees to appoint independent members (and possibly standards could be dealt with by a re-constituted Audit Committee) but these are at an early stage of consultation by the government. It is not clear whether the terms of reference of the new style Audit Committees will permit them to deal with standards matters.

3.3 Code of Conduct

The provisions in the Local Government Act 2000 requiring local authorities to adopt a code of conduct based on a national model code will be repealed. The undertakings given by Councillors to comply with the current Code of Conduct will cease to have effect when these provisions are repealed.

The Localism Bill contains provision allowing local authorities to adopt a code of conduct, but there will be no obligation so to do. The Council will be able to adopt a revised or replacement code or to withdraw the Code without replacing it. Ultimately this will be a matter for full Council.

Although it is not yet clear how all authorities will respond it does appear likely that many authorities will choose to do so. Andrew Stunell (Under Secretary of State for CLG) has stated "the Government ... believe that if a Local Authority wants to adopt its own Code of Conduct, it should be free to do so. It is almost inconceivable that Authorities will not adopt one, as has been found in the case of a policy for employees". It may be that, initially, many authorities will adopt their existing code of conduct as the local code. The existing Code of Conduct is attached as Appendix One.

In addition the manner and extent of any investigation in to a complaint of a breach of an adopted code of conduct may be undertaken in such a manner as the authority thinks fit. The Council will need to adopt a local policy on investigations in due course.

3.4 Members' Interests

The Secretary of State will have power to make regulations which require the Monitoring Officer to establish and maintain a Register of Interest for Members and co-opted Members. The regulations may provide for:-

- Registration of financial or other interests
- Disclosure of relevant interest before taking part in the business of the Authority
- The prevention/ restriction of participation in the business of the Authority if the
- Member has a relevant interest in the subject matter
- The granting of Dispensations
- Sanctions which the Authority may impose for failing to comply with the regulations

A Member or co-opted Member will have committed an offence if he or she fails to register or fails to disclose a financial or other interest as required or takes part in the business of the Authority where the regulations have restricted or prohibited his or her participation. Such an offence will be triable in the Magistrates Court and the maximum fine available will be at Level 5 (currently £5,000). In addition disqualification for up to 5 years from being or becoming a Member or co-opted Member of a relevant Authority will be available to the court as a further sanction. Only the Director of Public Prosecutions will be able to bring a prosecution.

4. Financial Implications

- 4.1 There are no immediate financial implications. There will be financial implications in terms of the costs of investigations, etc, depending on the nature of the standards framework Medway Council determines to implement when the Act comes in to force.

5. Legal Implications

- 5.1 The legal implications are set out in the report.

6. Recommendation

- 6.1 The Committee is asked to:

(a) express a view about the desirability or otherwise of retaining a Standards Committee and to request officers to bring back a further report on more detailed options available (including in relation to independent members and voting rights)

(b) express a view about the retention of a Code of Conduct, together with any views on areas where the existing model Code of Conduct could be improved or adapted to the local circumstances

(c) express a view about the type of complaints that should be investigated and the manner of investigations to inform officers in drafting an investigations policy (assuming a local code is adopted)

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Background Papers:

None