

	
STANDARDS COMMITTEE	24 June 2011
Report of the Monitoring Officer	

Abolition of the Standards Regime

1. Summary

1.1 This report updates Members on the future of the Standards Regime.

2. Background

2.1 Early in its life the Government confirmed an intention to abolish the "Standards Board" regime. Subsequently it became clear that this intention covered the abolition not only of the national Standards Board which issues guidance, oversees the system and arranges investigations of the most serious allegations but of the whole ethical framework for local government. The intention therefore covered the abolition of:

- The national code of conduct.
- Shared Parish Council/upper tier authority Standards Committees.
- The regime of local assessment, investigation and hearings with the power to impose a range of sanctions up to suspending Members from Office.
- The national Tribunal with power to disqualify Councillors from Office.

2.2 The Government's proposals have found their way into the Localism Bill, which has recently left the House of Commons for scrutiny in the Lords. After completing its Lords' stages the Bill will return to the Commons. It is not anticipated that this will occur until after the summer recess. The Bill is therefore unlikely to receive Royal Assent before late October or November of this year.

Local Codes and investigations

2.3 The key provisions of the Bill other than those abolishing the existing arrangements include:

- a **duty** on a "relevant authority" to promote and maintain high standards of conduct by members and co-opted members of the authority. This obligation extends to all "relevant authorities" which include parish councils, fire and rescue authorities and police authorities in England or in Wales.

- A **power** to adopt a code of conduct for their members. The Bill says that the authority must consider whether it is appropriate to investigate any written allegation that the local code has been breached and, if it decides that an investigation is appropriate, investigate the allegation "in such manner as it thinks fit". If an authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding whether and what action to take.

2.4 These provisions raise some interesting issues. Firstly, if a Council decides not to exercise its power to put in place a Code then there is no duty to investigate any allegation against a Member. Secondly, even if there is a Code, the new arrangements make no specific provisions for any sanction. Clearly, an authority could express its disapproval at a Member's actions, it could offer training or it could withdraw any facilities or allowances made to Members. Beyond that it is difficult to see what sanction would be available and the withdrawal of facilities depends upon them being offered in the first place – not the norm for Parish Councils. Finally, without the current statutory framework for a Standards Committee covering all the Parish Councils in an area, it is difficult to see how one Standards Committee could act for all the Parishes.

Register of Interests

2.5 The Secretary of State is given powers to make Regulations requiring the registration of interests and setting out circumstances in which Members cannot participate in meetings at which business relating to their registered interest is being discussed. The regulations may also dictate what sanctions can be imposed by the Authority where a member fails to comply with these duties. Interestingly, the Secretary of State's powers under the Bill do not include provision for suspension, partial suspension or disqualification of members.

2.6 The Bill also creates new offences relating to failures to register interests in accordance with the regulations referred to above or participating in business when prohibited from doing so by the regulations. A conviction will bring a fine of up to £5000. The Court will also have the power to order disqualification for a period of up to 5 years from being a member or co-opted member of a relevant authority. The Director of Public Prosecutions must authorise any prosecution.

2.7 The Secretary of State will have the power to make transitional arrangements. It has previously been indicated that on the "appointed day" any ongoing investigations being handled at a national level will transfer to the relevant local authority. A local authority's Standards Committee will remain established until it had dealt with all outstanding complaints. However, the suspension sanction will be removed from Standards Committees for the transitional period. Any cases with which the First Tier Tribunal is dealing with on the appointed day will be

concluded by that tribunal. It will not receive any appeals against Standard Committee rulings after that date. The right of appeal will not exist for those cases. The suspension sanction will be removed from Standards Committees for the transitional period. Hence the most a Standards Committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training.

2.8 The Bill has received criticism. The Association of County Secretaries and Solicitors, which represents Chief Legal Officers in local government, have described the standards provisions as:

“so permissive as to be practically ineffective”.

It will be interesting to see whether the House of Lords make any changes.

3. Recommendations

3.1 That the Standards Committee note this report and request updates for future meetings.

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Background papers

None