



Committee: STANDARDS COMMITTEE
Date: THURSDAY, 6th OCTOBER 2011
Venue: LANCASTER TOWN HALL
Time: 10.00 A.M.

A G E N D A

1. **Apologies for Absence**
2. **Appointment of Vice-Chairman**
To appoint a Vice-Chairman for the Municipal Year 2011/12.
3. **Minutes**
Minutes of meeting held on 20th January 2011 (previously circulated).
4. **Items of Urgent Business authorised by the Chairman**
5. **Declarations of Interest**
6. **Localism Bill** (Pages 1 - 11)
Report of the Monitoring Officer.
7. **Summary of Complaints** (Pages 12 - 15)
Report of the Monitoring Officer.

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors

Councillors Chris Coates, Sheila Denwood, John Harrison, Billy Hill, Roger Mace, Roger Sherlock and Joyce Taylor

Voting Co-optees

Stephen Lamley (Chairman), Tony James
Margaret Davy, David Jordison, Sue McIntyre and Frank Senior

(ii) Substitute Membership

Councillors

Councillors Shirley Burns (Substitute), Roger Dennison (Substitute), Paul Gardner (Substitute), Kathleen Graham (Substitute), Andrew Kay (Substitute) and Peter Williamson (Substitute)

(iii) Queries regarding this Agenda

Please contact Peter Baines, Democratic Services - telephone 01524 582074, or email: pbaines@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Wednesday 28th September 2011.

STANDARDS COMMITTEE**Future of the Standards Regime - Provisions of the
Localism Bill
6th October 2011****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise Members of the progress of the Localism Bill.

This report is public

RECOMMENDATIONS

That the report be noted.

1.0 Introduction

- 1.1 As reported at the last meeting of the Committee in January 2011, the Localism Bill was published on the 13th December 2010. A copy of the January report, summarising the provisions of the Bill is attached for ease of reference. The standards provisions form just a small part of the Bill. The Bill is progressing through parliament, and amendments will be made during that progress. The Bill is expected to be enacted towards the end of this calendar year.
- 1.2 The draft provisions relating to standards were criticised nationally as being apparently contradictory. Whilst on the one hand local authorities would be under a duty "to promote and maintain high standards of conduct by local authority members", the existing national code of conduct would be abolished. Instead, local authorities would be free to determine their own codes of conduct for members, or to decide not to have a code at all. The Bill also made provision for a new offence of deliberately failing to register and disclose interests, punishable by a fine of up to £5,000 and an order for disqualification.
- 1.3 During the summer, a cross-party group of peers, comprising Lord Bichard (cross-bench), Lord Filkin (Labour), Lord Newton (Conservative) and Lord Tope (Liberal Democrat), proposed amendments to the Bill. The group accepted that Standards for England would be abolished. However, their amendments would:
 - make it obligatory for all local authorities to adopt a code of conduct for members
 - include the requirement to register and declare interests, as now

- have a code as proposed by the Local Government Association and the National Association of Local Councils (NALC)
 - remove the Bill's proposed criminal offence in relation to failure to declare an interest
 - require, as now, councils to have a standards committee with independent members, with an appeals mechanism drawn from local government
 - to remove criminal sanctions from member misconduct, except where such conduct would already constitute a criminal offence.
- 1.4 The relevant provisions of the Bill were debated in the House of Lords on the 14th September 2011. The proposed amendments regarding a code of conduct and standards committee were not actually moved, although some minor amendments on the registration of interests were agreed.
- 1.5 However, Lord Taylor of Holbeach offered to set up a meeting between himself, fellow government minister Baroness Hanham and peers unhappy with this part of the draft legislation. The minister told the House of Lords he did not want to pre-empt what would be said at the meeting. However, he did give "a steer", saying he was "sympathetic to the proposal that there should be an obligation on local authorities to have a code of conduct, and that any such code should have some core mandatory elements to it".
- 1.6 The minister also acknowledged concerns about the criminal sanctions in the draft legislation, and indicated that whilst he was moving some amendments with regard to the registration and declaration of interests, this could also be a matter for discussion and clarification.
- 1.7 During the debate on the 14th September, Lord Bichard, who took up the minister's offer of a meeting to discuss changes to the Bill, accepted that there would be neither a national standards regime nor a centrally prescribed national code of conduct. However, he warned peers during the debate that the government's proposed regime would have been extremely damaging. "At a time when the public's trust in politicians is at a low ebb, it is important that all public bodies have explicit standards of conduct, which make transparent how they will carry out their business and provide benchmarks against which they can be held to account," he said, adding that this was "all the more important" as local councils are given more powers through elected mayors and changes in the planning regime.
- 1.8 Lord Taylor acknowledged the strength of feeling among peers on the issue of local government governance. He insisted that there was "considerable common ground" in that "we all want a vibrant and the strongest possible local democracy and we all want the highest standards of conduct in local government". The issue is how this could be achieved.
- 1.9 The minister emphasised that abolition of the Standards for England regime was a commitment. However, Lord Taylor recognised that there were significant concerns that what the measures in the Bill put in its place are too localist and do not deliver the required outcome. Lord Taylor suggested that there were some difficult issues to be addressed. "There is clearly a discussion to be had on where to strike the balance between the local framework we have proposed and the framework proposed in [the peers'] amendments," he said. "I am not going to claim that I have all the answers at this stage." The minister said he would not comment on the detailed points raised during the debate, as these would be better dealt with at the meeting. He added that he expected to come up "with something suitable" on the code of conduct issue ahead of the Third Reading of the Bill.

- 1.10 Lord Taylor warned that he was more sceptical about some of the other amendments put forward. “For instance, I would have concerns that, in making provision about an enforcement or appeals mechanism, we might in effect recreate much of the architecture of the standards regime,” he said. “We could end up inadvertently modifying rather than abolishing the Standards Board regime.”
- 1.11 The minister acknowledged concerns expressed by peers about how the standards regime would apply to parish councils. “It is vital we get a system that works not only for principal authorities but also for parish councils,” he said. “My sense is that we need to discuss the shape of the regime first, then work through how we apply that to parishes.”
- 1.12 The outcome of the debate in the House of Lords is that the standards regime for the future is still very uncertain, and it is therefore impossible at the moment to prepare for the future. At the time of writing this report, it was not known when the meeting referred to above between the government and the cross-party group of peers would take place, or indeed what the timetable is for the Bill to progress through Parliament.

2.0 Proposal Details

- 2.1 The position will be updated at the meeting, if any further information is available.

3.0 Details of Consultation

- 3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 No options are presented at this stage. The purpose of the report is simply to update the Committee on the latest proposals.

5.0 Conclusion

- 5.1 The report is for noting.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising

LEGAL IMPLICATIONS

The report sets out the proposed legal provisions.

FINANCIAL IMPLICATIONS

None directly arising from this report. Any financial implications for the Council would only become clear once the Bill is enacted.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has prepared the report in her capacity as adviser to the Committee.

BACKGROUND PAPERS

Localism Bill

Contact Officer: Mrs S Taylor

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Ref:

STANDARDS COMMITTEE

**Future of the Standards Regime - Provisions of the
Localism Bill
20th January 2011**

Report of the Monitoring Officer

PURPOSE OF REPORT

To advise Members of the provisions in the Localism Bill relating to the Standards regime, and the government's proposed transitional arrangements

This report is public

RECOMMENDATIONS

That the report be noted.

1.0 Introduction

- 1.1 As reported at the last meeting of the Committee, the government had in September 2010 announced its proposals to abolish the statutory standards regime. This has now been formalised in the Localism Bill which was published on the 13th December 2010.
- 1.2 The effect of Chapter 5 and Schedule 4 to the Bill is to abolish the regime contained in the Local Government Act 2000 and replace it with a more local regime. A relevant authority, the definition of which includes district councils and parish councils, will be under a duty to 'promote and maintain high standards of conduct by authority members and co-opted members'.
- 1.3 Whilst the power of the Secretary of State to issue a model code of conduct in England will be removed (and consequently the duty on authorities in England to adopt it), relevant authorities in England will be empowered to adopt a code 'dealing with the conduct that is expected' of authority members and co-opted members 'when they are acting in that capacity'.
- 1.4 A relevant authority may revise its existing code of conduct, adopt a code to replace its existing one or withdraw its existing code without replacing it. An authority 'may publicise its adoption, revision or withdrawal of a code of conduct in any manner that it considers appropriate'. The function of adopting, revising or withdrawing a code of conduct must be exercised by the authority and cannot therefore be delegated under section 101 of the Local Government Act 1972.
- 1.5 If a written allegation is made to an authority that a member has or may have

failed to comply with the code of conduct, an authority must 'consider whether it is appropriate to investigate the allegation' and, if it decides that it is, it must 'investigate the allegation in such manner as it thinks fit'. If a member is found to have breached the code of conduct, an authority 'may have regard to the failure' in deciding whether to take action and if so what action to take.

- 1.6 With regard to interests, the Bill enables the Secretary of State to make provision for requiring the Monitoring Officer to establish and maintain a register of member interests. Regulations may specify the financial and other interests that are to be registered, and may require a member to disclose an interest before taking part in business of the authority relating to an interest of a specified kind, or prevent or restrict the participation of a member having such an interest. Regulations may also provide for potential sanctions which an authority may impose (other than suspension or disqualification) for failure to comply, and may require copies of the register to be made publicly available. Regulations may also provide for dispensations to be granted..
- 1.7 It will be a criminal offence for a member without reasonable excuse to fail to register or disclose a specified interest or to breach relevant regulations. On conviction the court may by order disqualify a member for up to five years. However, a prosecution under this section may be mounted only by or on behalf of the Director of Public Prosecutions. No prosecution may be brought more than three years after the commission of the offence or (in the case of continuous contravention) after the last date on which the offence was committed. However, proceedings are usually likely to be brought within 12 months from 'the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.'
- 1.8 The regime under the Local Government Act 2000 was perceived by the government to be unwieldy and cumbersome. However, since the publication of the Bill, concern has been expressed by commentators that there was after all much to be said for a national regime. Sir Christopher Kelly, Chairman of the Committee on Standards in Public Life, has commented, 'In the committee's view it is essential that there remains a national code of conduct so that both councillors and – most importantly – the public can judge what is acceptable behaviour and what is not. Leaving it up to each local authority to decide whether to have their own code and – if so – what it should contain, risks confusion. National codes of conduct govern the behaviour of MPs, civil servants and others in public life. Why are councillors judged to be different?'
- 1.9 The Localism Bill is unlikely to be enacted until late 2011 at the very earliest, and it is of course possible that changes will be made to its provisions as it progresses through parliament.
- 1.10 For the time being, the current standards regime will remain in force, and there will be transitional provisions once the Bill is enacted. The proposed transitional arrangements are set out in the attached document published by the Department for Communities and Local Government.

2.0 Proposal Details

- 2.1 The provisions of the Localism Bill are for noting at this stage, as there may be changes before the Bill is enacted. As the Bill progresses, it may be that national bodies, for example the LGA (Local Government Association) or ACSeS (Association of Council Secretaries and Solicitors) may consider drafting a national Code of Conduct which would provide uniformity, albeit not on a statutory basis. The Committee will be kept informed of any developments, with a view to advising on an appropriate Code of Conduct for the Council once the Bill is enacted.
- 2.2 Members will be aware that the Council at its meeting on the 17th November 2010 approved the reappointment of the Chairman and other independent and parish (subject to re-election) members of the Standards Committee until the implementation of any statutory changes to the standards regime. Whilst the Bill repeals the statutory provisions in the Local Government Act 2000 in respect of standards committees, it may be that Councils will wish to maintain “common law” standards committees, and again the LGA or ACSeS may provide guidance or advice on this in due course, and the Council will wish to consider its position..
- 2.3 As the existing regime is likely to remain in force until at least the end of 2011, the Monitoring Officer is of the view that it will be necessary to provide some training on the current Code of Conduct for new City and parish councillors following the elections in May.

3.0 Details of Consultation

- 3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 No options are presented at this stage. The purpose of the report is simply to update the Committee on the latest proposals.

5.0 Conclusion

- 5.1 The report is for noting.

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| <p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>None directly arising</p> |
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| <p>LEGAL IMPLICATIONS</p> <p>The report sets out the proposed legal provisions.</p> |
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| <p>FINANCIAL IMPLICATIONS</p> <p>None directly arising from this report. Any financial implications for the Council would only become clear once the Bill is enacted.</p> |
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OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has prepared the report in her capacity as adviser to the Committee.

BACKGROUND PAPERS

Localism Bill

Contact Officer: Mrs S Taylor

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Ref:



Abolition of the Standards Board regime

The Standards Board regime

The Coalition Agreement *Our Programme for Government* included the commitment to “abolish the Standards Board regime”.

The Government considers that the Standards Board regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and regulated by a central quango was inconsistent with the principles of localism. In addition there is a concern that the regime is a vehicle for vexatious or politically motivated complaints.

The Government considers that it is the right and the responsibility of the electorate to determine who represents them and that the abolition of the regime will restore power to local people.

Accordingly, given the interdependencies of the bodies, requirements and guidance that constitute the Standards Board regime, the Government is proposing to abolish the regime in its entirety.

Subject to Parliament approving the necessary legislation, the changes are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked.
- The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribes the model code of conduct to apply to members of relevant authorities, will be revoked.
- The requirement for local authorities to have standards committees will be abolished.
- Standards for England (formally known as the Standards Board for England) will be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board requires primary legislation to abolish it and its legislative functions. None of the Standards Boards functions will be transferred to other bodies.

- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members.

It is intended to effect the abolition of the Standards Board regime through the Localism Bill. It is anticipated that the Bill will be laid before Parliament in December and will receive Royal Assent late-2011.

The present conduct regime (a model code governing local authority members' conduct and enforced through local authority standards committees, regulated in turn by the Standards Board for England), will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent.

This means that until the appointed day, an allegation of misconduct can be made; after the appointed day, no further allegations of misconduct can be made under the standards board regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures will be put in place to address this.

Proposed transitional measures

Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that their allegations would be properly dealt with. It also enables that if a member has an allegation made against them, they should have the opportunity to clear their name.

The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.

Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date.

The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).

Further, the Government propose that the suspension sanction is 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.

The conduct regime in a post-Standards Board world

The Government is committed to maintaining high standards of conduct in office and will ensure that, in the absence of a statutory code of conduct, councillors do not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represent. Members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The Government intend that wilful failure to comply with these requirements will constitute a criminal offence.

The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.

The requirement to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

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STANDARDS COMMITTEE**SUMMARY OF COMPLAINTS****6th October 2011****Report of the Monitoring Officer****PURPOSE OF REPORT**

To provide the Committee with a summary of recent complaints of alleged breach of the Code of Conduct.

This report is public

RECOMMENDATIONS

(1) That the report be noted.

1.0 Introduction

1.1 At its last meeting in January 2011, the Committee received a summary of complaints, and noted that at that time there were no complaints outstanding. A summary of complaints received since then is attached.

2.0 Details

2.1 The attached table summarises the complaints that have been received since the January meeting, and confirms that of these, just one remains ongoing.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 The overview of complaints is for noting.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

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| FINANCIAL IMPLICATIONS | |
| None directly arising from this report. | |
| SECTION 151 OFFICER'S COMMENTS | |
| The Section 151 Officer has been consulted and has no further comments. | |
| LEGAL IMPLICATIONS | |
| None directly arising from this report. | |
| MONITORING OFFICER'S COMMENTS | |
| The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee. | |
| BACKGROUND PAPERS | Contact Officer: Mrs S Taylor |
| None | Telephone: 01524 582025 |
| | E-mail: STaylor@lancaster.gov.uk |
| | Ref: |

STANDARDS COMMITTEE 6TH OCTOBER 2011 – SUMMARY OF COMPLAINTS

| REF | SUBJECT MEMBER | COMPLAINANT | DATE OF COMPLAINT | DATE OF ASSESSMENT SUB-COMMITTEE | SUMMARY OF COMPLAINT | OUTCOME |
|------|-----------------------------------|----------------------|-------------------|----------------------------------|---|--|
| 1/11 | (Former) City Councillor | Member of the Public | 8/4/11 | 21/4/11 | Bringing office or authority into disrepute, and using position as a member improperly to confer or secure an advantage or disadvantage | Referred for investigation. Investigating Officer's report considered by Assessment Sub-Committee 24th August 2011. Finding of "no breach" accepted by the Sub-Committee |
| 2/11 | (Former) City Councillor | Member of the Public | 11/4/11 | 21/4/11 | Manner in which the councillor dealt with a matter raised by a ward resident, failing to treat with respect | No action. A request for review was considered by the Review Sub-Committee on the 8th June. Original decision upheld – no action |
| 3/11 | Two City Councillors (one former) | City Councillor | 19/4/11 | 21/4/11 | Failure to declare personal or prejudicial interest, and failing to act appropriately in relation to a prejudicial interest | Referred for investigation. Monitoring Officer referred the complaint back to the Assessment Sub-Committee on the 27th June 2011 in the light of the threat of judicial review proceedings in respect of the Planning Committee decision that was the subject of the complaint. In view of possible conflict of interest if the Standards complaint were investigated locally, Assessment Sub-Committee referred the complaint to Standards for England. SfE accepted the referral but decided to take no further action, on the basis that there was no personal or prejudicial interest. |
| 4/11 | Two Morecambe Town Councillors | Member of the Public | 10/6/11 | 15/6/11 | Failing to treat with respect, bullying, bringing office or authority into disrepute | Referred for investigation. However, in the light of concerns of the investigating officer that conflicting evidence meant that it would be impossible to make findings of fact, Monitoring Officer referred the complaint back to the |

| REF | SUBJECT MEMBER | COMPLAINANT | DATE OF COMPLAINT | DATE OF ASSESSMENT SUB-COMMITTEE | SUMMARY OF COMPLAINT | OUTCOME |
|------|---------------------------|--------------------------------|-------------------|----------------------------------|--|---|
| 5/11 | Morecambe Town Councillor | Two Morecambe Town Councillors | 27/6/11 | 22/7/11 | Failing to treat with respect, bullying, bringing office or authority into disrepute | Assessment Sub-Committee on the 22nd July. Sub-Committee referred it to the Monitoring Officer for "other action", which is ongoing. No action. No request for review. |