

# **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

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