

**Norwich City Council**  
**STANDARDS COMMITTEE**

Item

7

**REPORT for meeting to be held on 17 June 2011**

**The Localism Bill & the future of the Standards framework**

**Purpose**

This report updates the standards committee on the coalition government's proposals in relation to the future abolition of standards for England and the standards framework.

**Recommendations**

For the standards committee to note the current situation and to think about what guidance to offer at a future point, towards the possible formation of a local code of conduct and standards framework for the council.

**Financial Consequences**

None

**Strategic Priority and Outcome/Service Priorities**

Contributes to maintaining and improving the council's reputation.

**Background Documents**

Briefing document from trowers & hamlins

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## 1. Introduction

- 1.1 The Coalition Government's "Programme for Government" of 20 May 2010 contained the commitment to abolish the standards board regime. Primary legislation is needed to abolish standards for England and it is now known that the provisions are included in the "Decentralisation and Localism Bill". Royal assent for this is anticipated to take place later this year. If successful, this will lead to the final closure of standards for England sometime between December 2011 and March 2012.

## 2. Currently & looking forward

- 2.1 Standards board for England continues to carry out a number of obligations for themselves and monitoring officers. The local standards framework still exists and standards committees and monitoring officers continue to have regard and an obligation to keep to the standards framework in operation.
- 2.2 The current framework will remain until the bill receives royal assent and the relevant provisions are enacted. In the meantime, standards committees will continue to have a legal requirement to operate as now and, in particular, to continue to consider any allegations.

## 3. What does this mean for the future of the council's standards committee?

- 3.1 In brief the proposal is that, alongside the abolition of standards for England, the First Tier Tribunal (Local Government Standards in England) would lose jurisdiction over member conduct.
- 3.2 The government also intends to remove the national Code of Conduct for councillors and the requirement to have a standards committee. Instead **it would be for councils themselves to choose whether or not they wish to have a local code or a standards committee**, which would be an 'ordinary committee' of the authority and therefore not need to have independent representation. In addition, council's may decide to continue to co-opt outside members to their standards committee for consideration of complaints about the conduct of elected and co-opted members. Such committees will only be able to censure and not suspend or disqualify members from council membership. There would also be a new criminal offence created relating to failure to register or declare interests.

## 4. Localism bill standards and conduct – emerging details

- 4.1 Clause 15 of the Bill provides for **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" as defined in clause 15(4) – which include parish councils, fire and rescue authorities and police authorities in England or in Wales. These functions are not to be executive functions.

- 4.2 Clause 16 provides that relevant authorities may adopt a code of conduct for their members or it may also revise its existing code, adopt a code to replace its existing code, or withdraw its existing code without replacing it. If a written allegation is made to a relevant authority that a member has failed or may have failed to comply with the code of conduct the authority must consider whether it is appropriate to investigate the allegation, and if it decides that an investigation is appropriate, investigate the allegation "in such manner as it thinks fit". If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation) it may have regard to the failure in deciding a) whether to take action in relation to the member, and b) what action to take.

## **5. To adopt or not to adopt a code of conduct?**

- 5.1.1 As currently drafted paragraph 55 of Schedule 4 makes it clear that any code of conduct adopted by a relevant authority ceases to have effect once the Bill becomes law. Therefore it would be possible for an authority to operate without any adopted code. If this is the case then no written allegations of breach of the code may be made, since no code has been adopted which could be breached.
- 5.2 Statements made by coalition government ministers at the committee stage in February, indicated their expectation of councils, when faced with a proposed amendment to the bill (which failed) to make it compulsory for authorities to adopt a code. Andrew Stunell (Under secretary of state for communities and local government CLG) stated "The government therefore 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".
- 5.3 Along with other local authorities in the region, the monitoring officer will be proposing the adoption of our own code of conduct.

## **6. Register of interests and offices**

- 6.1 Clause 17 provides for the establishment and maintenance of a register of interests of member and co-opted members by giving the secretary of state power to make regulations in this regard. These regulations can specify what interests must be recorded in the register, to disclose any such interests before taking part in business of the authority; by preventing and restricting the participation of such members where an interest has been disclosed and for a relevant authority to grant dispensations in specified circumstances. In addition the regulations can provide what sanctions may be imposed for failing to comply with the regulations and to require the authority to make copies of the register available for public inspection.
- 6.2 Interestingly, the secretary of state's powers are specifically circumscribed by 17(3) which makes clear that the power to make regulations will not include provision for suspension or partial suspension

of a person from being a member or co-opted nor the disqualification of such persons.

- 6.3 Clause 18 provides for offences. A member or a co-opted member commits an offence if without reasonable excuse that person fails to register a financial or other interest in accordance with the regulations referred to above (6.1 to 6.3); fails to disclose an interest of a kind specified in the regulations; or takes part in business of the authority to which an interest disclosed by the regulations relates contrary to a prohibition or restriction imposed by the regulations.
- 6.4 A summary conviction will bring a fine not exceeding level 5 on the standard scale and disqualification for a period of up to 5 years from being a member or co-opted member of the relevant authority in question or any other relevant authority.
- 6.5 Prosecutions for such offences may not be instituted except by or on behalf of the director of public prosecutions and must be brought within 12 months of the prosecuting authority having the evidence to warrant prosecution.
- 6.6 An impact assessment in relation to these changes was issued by CLG in January 2011. It made certain assumptions under the new regime in relation to the handling of allegations that members may have fallen foul of the proposed rules in relation to registration and declaration of interests. A particularly notable feature of the impact assessment is that a proportion of allegations, even if initially referred to the police to investigate, may be referred back to the relevant monitoring officer with a view to a less formal manner of resolution. The circumstances and processes by which such a step could be taken, are however, not described and it must be the case that this raises significant issues in relation to the respective roles and responsibilities of monitoring officers and the police.