

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	SCRUTINY CONSULTATION - MAINTAINING HIGH ETHICAL STANDARDS IN LOCAL GOVERNMENT
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Date of Meeting:	07 March 2011
Directorate:	Borough Solicitor & Monitoring Officer
Ward(s)	All

1. Summary

- 1.1** This report informs members about the content of correspondence from the Chief Executive of the Local Government Association concerning the changes proposed in the Localism Bill following the forthcoming abolition of the Standards Regime and in particular Standards for England (formally the Standards Board for England) ceasing to operate, Councils no longer being required to have a local standards committee, the national code of conduct for elected members being dispensed with and Councils being allowed to adopt voluntary codes of conduct.
- 1.2** Attached at Appendix 1 is the email correspondence from the Chief Executive of the Local Government Association dated 16 February to the Chief Executive of this Authority.
- 1.3** Attached at Appendix 2 is the paper produced jointly by the Local Government Group and the Association of Council Secretaries and Solicitors (ACSeS) entitled 'Maintaining High Ethical Standards in Local Government' and which covers the following:
- The position of the Nolan Principles
 - Registering interests
 - Fiduciary duty of Councillors
 - Criminal and civil law including discrimination and electoral offences
 - Local Government Ombudsman
 - Audit Commission powers
 - The common law position of bias, predisposition and predetermination

2. Recommendations

The Committee is asked to note this report.

3. Report Background

3.1 Main changes proposed in the Bill

- The principles set out in The Relevant Authorities (General Principles) Order 2001 which govern the conduct of members and the Model Code of Conduct itself to be revoked (however local authorities will be free to adopt their own, voluntary code of conduct should they so wish).
- Standards for England and the requirement for local authorities to have standards committees to be abolished.
- Elected 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 intends for failure to comply with these requirements to constitute a criminal offence.

3.2 The Criminal law

3.2.1 A Councillor using their position to support or influence a planning application or a project or venture that they have a financial interest in or otherwise using their position for self financial gain would be committing an offence under the **Fraud Act 2006**. Conviction under this Act carries a maximum penalty of 10 years imprisonment or an unlimited fine or both

3.2.2 The **Bribery Act 2010** provides a legal framework to combat bribery in the public (or private) sectors. It replaces the fragmented and complex offences at common law and those previously contained in the relevant legislation. The new Act creates two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage in a public office. Again, the maximum penalty for individuals is 10 years' imprisonment or a fine, or both. The Crown Prosecution Service, rather than Councils, would decide whether there was sufficient evidence to prosecute for criminal offences.

3.3 Bias, Predisposition and Predetermination

This is a complex area of common law that has implications for Councillors individually and Councils. The Localism Bill aims to clarify the rules on pre-determination and bias and the Committee is asked to note the content of the paper.

4. Implications (including financial implications)

4.1 Resources and Risk

None, other than appear in this report

4.2 Legal

None, other than appear in this report

4.3 Other Implications

None, other than appear in this report

5. Background Papers

Correspondence from Chief Executive of Local Government Association and the Paper produced jointly by the Local Government Group and the Association of Council Secretaries and Solicitors (ACSeS) which form the appendices to this report. Legal Services papers.

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