

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	CHANGES TO THE STANDARDS REGIME - THE WAY FORWARD POST ENACTMENT OF THE LOCALISM BILL
---------------------	--

Date of Meeting:	28th September 2011
Directorate:	Borough Solicitor and Monitoring Officer
Ward(s)	All

1. Summary

The purpose of this Report is to:

- 1.1 Inform members of the Standards Committee of the current status of the Localism Bill (the “Bill”) in relation to the proposed abolition of the current Standards Regime and the measures that the Bill proposes to introduce in its place. In particular, this Report informs members of the Standards Committee about very recent developments that have occurred in this respect following the Bill reaching the Report Stage in the House of Lords at the beginning of this month.
- 1.2 Inform the Standards Committee about the proposals that will be put forward to the Group Leaders and Chief Executive Meeting to consider the different possible broad ways forward that are open to Northampton Borough Council in terms of promoting and maintaining ethical standards at this Council following the abolition of the current Standards Regime, (depending on which aspects of and final amendments to the Bill receive Royal Assent).

2. Recommendations

- 2.1 To note the contents of this Report.
- 2.2 To consider the proposals and principles that will be put forward to the Group Leaders and Chief Executive Meeting as set out in the Briefing Note entitled, “*Changes to the Standards Regime – Proposals for the Way Forward Post Enactment of the Localism Bill*” (produced for that Meeting by the Borough Solicitor and Monitoring Officer), attached as Appendix 1 to this Report, (the “Briefing Note”).
- 2.3 To make any recommendations or comments to the Group Leaders and Chief Executive Meeting following consideration of the Briefing Note as stated in Recommendation 2.2 above.

3. Report Background

3.1 Passage of the Bill

3.1.1 As members of the Standards Committee are aware, shortly after the general election, the Government announced its commitment to abolish Standards for England. In the Localism Bill, the Government proposes the following key measures to replace the Standards for England Standards Regime:

- Imposition of a requirement that authorities promote and maintain high standards of conduct by members.
- Allowing local authorities to adopt a voluntary code of conduct. (If local authorities did adopt a voluntary code, they would have to investigate allegations of any member failing to comply with it).
- Making it a criminal offence for members to deliberately withhold or misrepresent a personal interest.

3.1.2 There has been a significant amount of debate about whether the member conduct provisions outlined in the Localism Bill would be effective. The Localism Bill has now reached the Report Stage in the House of Lords and peers in the House of Lords have proposed a number of amendments to the standards provisions in the Bill stating that these had “serious deficiencies”.

3.1.3 In particular, peers in the House of Lords have expressed the following concerns about the impact of the standards provisions in the Bill if it were enacted in its current form:

- that the measures in the Bill are “too localist”;
- that although there would be a duty to promote and maintain high standards of conduct, this would result in, “a weak system, a free for all, implying that standards matter less”;
- that the public would be confused by the inconsistency in standards across the country;
- that public confidence in local standards would be weakened at a time when public trust in politicians is low; and that it is, “all the more important” that “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”, as Councils are given more powers through changes in the planning regime;
- that the new criminal offence would be “draconian” in relation to minor failures;
- that there are no effective sanctions for serious misconduct (except for failure to register an interest); and

- that Councils with poor standards are less likely to adopt a code voluntarily, potentially damaging the reputation of all authorities.

3.1.4 The House of Lords are therefore considering a number of amendments to the Bill, which amongst other things would:

- make it obligatory for Councils to adopt a Code of Conduct;
- have a code as proposed by the Local Government Association and the National Association of Local Councils;
- maintain the power of Councils to suspend Members found guilty of serious misconduct;
- require Councils to have a Standards Committee; and
- remove the Bill's new criminal offence in relation to failure to declare an interest.

3.1.5 Peers in the House of Lords have argued that their proposed amendments to the Bill would:

- see “an effective, clear, common set of standards” and provide public certainty as to what rules apply;
- ensure public confidence that councillors who do not behave properly are dealt with “locally and effectively”; and
- mean that local government was self-regulating, but to a high standard.

3.1.6 Whether the amendments proposed by House of Lords peers are adopted remains to be seen. However, Ministers have in response to House of Lords comments, signalled that they would make concessions on the Standards Regime proposed by the Bill to result in there still being an obligation on local authorities to have a code of conduct and to require any such code to contain certain core mandatory requirements.

3.2 The Way Forward

3.2.1 The Council will need to respond and incorporate any mandatory changes required by the Bill once enacted. Given the nature of the issues concerned, Full Council will need to agree the more substantive elements of the changes. In order to facilitate this, the Group Leaders and Chief Executive Meeting will agree broad principles, bearing in mind of course that at this stage, the changes affecting standards are fluid.

3.2.2 The Standards Committee are asked to consider and discuss the preferred ways forward for this Council in terms of promoting and maintaining ethical behaviour and high standards of conduct amongst Members post enactment of the Localism Bill. The Council cannot agree at this stage the details of the

way forward because this is all dependant on the final form that the Localism Bill is enacted in. However, the Council is proactively broadly considering the way forward leading up to enactment of the Localism Bill.

3.2.3 To inform their debate, members of the Standards Committee are asked to consider:

- the Briefing Note at Appendix 1;
- the recent developments in the House of Lords as mentioned in paragraph 3.1 above; and
- the document attached at Appendix 2 entitled, "*Survey of Public Attitudes towards Conduct in Public Life, September 2011*" (the "Survey"). The Executive Summary of the Survey can be found at pages 8 – 11.

3.2.4 Members are asked to make comments and recommendations that will be reported to the Group Leaders and Chief Executive Group, regarding their views on the broad approach this Council should take in relation to standards, conduct and ethics in the context of changes to be implemented by the Localism Bill.

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

- Local Government Lawyer commentary article dated 7th September 2011, entitled, "*Peers press changes to "seriously deficient" standards regime in Localism Bill*"
- Local Government Lawyer commentary article dated 15th September 2011, entitled, "*Local authorities could still be obliged to have a code of conduct as minister signals Localism Bill concession*".

Report Author and Title: Marianne McCarthy, Corporate and Commercial Solicitor
on behalf of:
Francis Fernandes, Borough Solicitor and Monitoring Officer

Telephone and Email: 01604 837343 mmccarthy@northampton.gov.uk
01604 837334 fernandes@northampton.gov.uk

