

Meeting of:	Date	Agenda item	Ward(s)
Standards Committee	13 October 2011	7	

SUBJECT: UPDATE ON LOCALISM BILL AND STANDARDS

1. Synopsis

- 1.1 Currently all local authorities, including Islington council, must by law have a code of conduct and a standards committee to oversee the behaviour of their councillors and receive complaints. A central body, Standards for England, regulates each of these standards committees (Local Government Act 2000, Part III on conduct of local government members). This local standards framework is to be radically changed by the Localism Bill.
- 1.2 This reports updates members of the Standards Committee on the progress of the Bill since the matter was last discussed by the committee, and the current position in relation to the proposed changes to the standards framework.

2. Recommendations

- 2.1 To note the content of this report; and
- 2.2 To agree to receive a further report at its next calendared meeting.

3. Background

- 3.1 The changes proposed by the government are on the basis that it considers that in practice the current system of safeguards to prevent the abuse of power and misuse of public money are ineffective. The Government considers that the regime has encouraged vexatious and frivolous complaints at a considerable cost to the council taxpayer and central government. This view has some support outside government. Professors George Jones and John Stewart have noted: 'The creation of the national Standards Board encouraged the ballooning of minor incidents into inquiries which impose large costs on the accused, and impede parties from settling disputes at a local level' (*Municipal Journal*, 16 April 2009), and the Committee on Standards in Public Life has commented: 'The system has generated a large number of apparently minor, vexatious and politically motivated complaints that have created a significant backlog of national investigations, leaving many members with accusations hanging over their

heads for long periods of time.’ Only 28 per cent of complaints received between May 2008 and the end of March 2010 were considered worthy of investigation, but councils are required to assess all complaints initially.

3.2 As set out in the earlier report to this committee in February 2011, the Localism Bill, as currently drafted would introduce the following changes:

1. Remove the requirement for the council to adopt a centrally prescribed Code of Conduct for members, or indeed any code;
2. Remove the requirement for the council to maintain a standards committee for investigating complaints about councillors’ conduct;
3. Remove the obligation on councils to investigate trivial complaints even where it has a code;
4. Remove the ability for the council, through its standards committee, to impose local significant sanctions for misconduct, including suspension for up to 6 months;
5. Abolish the Standards for England which monitors the performance of standards committees, investigates the more complex allegations and has the power to impose heavier sanctions than standard committees;
6. Introduce a criminal offence for councillors to deliberately withhold or misrepresent a personal interest punishable by a fine of up to £5,000, and an order for disqualification.
7. Introduce a revised requirement for councillors to register certain personal interests on a publicly available register.

The Localism Bill also clarifies the rules on “predetermination” to make it clear that it is proper for councillors to play an active part in local discussions and express their own view, provided they are open minded at the point of decision in the sense of listening to all the arguments and weighing them against their preferred outcome, before actually voting.

4. **Register of interests**

4.1 The proposed new requirement for members to register and declare their personal and financial interests is very similar to the current requirements in the existing Code of Conduct. The council’s Monitoring Officer will be responsible for maintaining the register of members’ interests, but it will be the responsibility of each member to comply with the new statutory requirement. The Localism Bill will introduce a new criminal offence for deliberate failure to comply with the requirement to register and declare personal interests. Accordingly, responsibility for investigating and prosecuting these types of offences will be transferred to the police and criminal courts respectively.

However, the council’s Monitoring Officer is likely to be closely involved in the investigation of complaints. Complaints may be made either to the Monitoring Officer or directly to the police. It is possible that the complaints that are made directly to the Police will initially pass back to the Monitoring Officer to investigate and potentially resolve without the police having to launch a formal investigation. The impact assessment for the Localism Bill published by the Department for Communities and Local Government treats the Monitoring Officer (or equivalent) as in effect the first port of call for all complaints relating to the failure of councillors to register or declare personal interests.

Of the total complaints received by Monitoring Officers (or equivalent) across England relating to this type of offence, it is assumed that around 50 per cent will be dismissed without further action (Department for Communities and Local Government, Impact Assessment, January 2011). It is further assumed that around 30 per cent of complaints received by Monitoring Officers (or equivalent) will be resolved locally, without police involvement. This is expected to

be possible if for instance the councillor in question agrees in the light of the complaint that he/she does in fact hold a personal interest, and agrees to register it immediately. The remaining 20 per cent of complaints it is assumed will be passed on to the police amounting to an estimated 100 to 300 cases a year in total.

5 Progress of the Bill

- 5.1 The Bill is currently nearing the end of the House of Lords report stage. Following this there will be a third reading, probably in November. A significant number of amendments were tabled to the provisions about the changes to the standards regime. Most have been withdrawn or not moved as the Government agreed to work with interested parties to look again at the issue of local governance arrangements and to try to introduce suitable amendments before the Third Reading. Government has indicated it is 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. The Government has already tabled amendments to the register of interests provisions which will provide directly for penalties for breaches of the interests provisions rather than leaving this entirely to regulations. The final legislative position is therefore hard to predict, although it seems very likely that there will be a requirement for a Code of some sort.

6 Developing a new approach to standards

- 6.1 Most authorities in London seem to be waiting to see what happens to the Bill before devoting too much time to deciding how to respond to the changes. There are however some which have already set up working groups or started to prepare their own codes. There appears to be a general feeling in favour of retaining a voluntary Standards Committee of some sort, possibly combined with an Audit Committee where these already exist. Some disquiet has been expressed about this on the basis that this would mix regulatory and complaints investigation roles and that the skills required of independent members in carry out these two roles may be different. One possibility is for a single Audit and Standards Committee to have a sub-committee specifically for dealing with complaints of breach.

7. Conclusion

It seems likely that the proposed changes to the standards regime will be changed before the Bill passes into law. In particular it is likely that there will be a requirement for a code of conduct, probably with some mandatory content. It is probably too early for the committee or the council to start thinking in detail about its response to the change and it is therefore suggested that a further report be brought back to the committee at its next meeting when the position should be much clearer.

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