

LOCALISM BILL

LEAD OFFICER: M.Jepson
REPORT AUTHOR: M.Jepson

Summary and Recommendation:

Reports on the Localism Bill and its implications for Standards Committees

Recommendation: That the Committee note the report and give guidance on the preferred option as described in 2.2

1. INTRODUCTION

- 1.1 The Localism Bill was published in December 2010 but is not expected to come into force until late 2011.

2. MAIN PROVISIONS OF LOCALISM BILL

- 2.1 As we anticipated the Standards Board (Standards for England) is to be abolished together with the current investigation and hearing regime. However, there will be a provision for ensuring that current matters are concluded. The Bill contains a newly introduced duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council.
- 2.2 There will be no requirement to have a Code of Conduct dealing with the conduct of Members and co-opted Members. However, there is a power to introduce such a Code.

A Council may:-

- a. revise its existing Code of Conduct;
- b. adopt a Code of Conduct which replaces the existing Code , or
- c. withdraw its existing Code of Conduct without replacing it.

It is likely that County-wide discussions will be taking place over whether There should be a voluntary Code of Conduct to replace the current statutory Code and it would be helpful if the Standards Committee could give guidance on their preferred option amongst those options shown

- 2.3 There is also a provision that if a new Code is introduced and a written allegation is made to a Council that a Member or co-opted Member of the Authority has failed or may have failed to comply with a Code of Conduct, it must consider whether it is appropriate to investigate the allegation and if it decides to do so, it will be able to investigate the allegation in such a manner as it thinks fit.

If a Council finds that a Member or co-opted Member of the Council has failed to comply with its Code of Conduct, it may have regard to the failure in deciding whether to take action in relation to the Member or co-opted Member and what action to take.

- 2.4 Therefore, if Members decide to keep a Code of Conduct or revise or introduce a new one (a Council decision), then they will also have to decide some mechanism for a decision to be taken over whether to investigate and if so, what form this investigation should take. Although it is clear that Parish Councils will be able to adopt their own Codes of Conduct it is not yet clear at the time of writing whether they would also be able to undertake their own investigation processes.
- 2.5 There will be a provision for Regulations to be made for the Monitoring Officer to maintain a Register of Members' Interests. However, there will not be a provision for suspension or disqualification. It has been suggested there may be a power of censure. However, this is not currently clear.
- 2.6 As anticipated, if a person commits an offence without reasonable excuse in relation to failing to register an interest, or failing to disclose an interest or taking part in business of the Council in which an interest is disclosed contrary to a prohibition or restriction imposed by Regulations, this will now be a criminal offence and a person would be liable to a fine, not exceeding £5,000. Proceedings are only to be instituted by the DPP and must be brought within 12 months of sufficient evidence of an offence becoming available, with a three year limit after commission of the offence. When a person is convicted of this offence, a court may also disqualify a person for not exceeding five years.
- 2.7 The Head of Paid Service will be able to grant exemptions to speak where Members would otherwise have been restricted from doing so, thus replacing the Standards Committee's current function. In carrying out this function the Head of Paid Service must consult the Monitoring Officer.

List of Appendices - None

List of Background Documents: None

List of Consultees: Corporate Leadership Team