



City of Westminster Standards Committee

Date:	9th March 2011
Classification:	General Release
Title:	Localism Bill Update
Report of:	Head of Legal and Democratic Services
Wards Involved:	All
Policy Context:	High Ethical Standards
Financial Summary:	There are no financial implications arising
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1. Executive Summary

This report provides the Committee with an update on the Government's proposals with regard to the future of the local government standards regime, as outlined in the Localism Bill presented to Parliament on 13th December 2010. The report also puts forward some preliminary considerations resulting from the Bill's proposals as they stand.

2. Recommendations

That the Committee note the content of the report and offer their initial views on the considerations in section 5 - the future of the Standards Committee (as referred to in paragraph 5.1), the proposed complaints against Members procedure and a voluntary code of conduct.

3. Background

- 3.1 In May of this year the Coalition Government published its Programme for Government 2010. This included preliminary details contained within the Localism Bill to abolish the Standards Board regime and Standards for England (the independent regulatory body for local government standards).
- 3.2 At its last meeting the Committee received a report outlining the proposals that would impact upon the standards regime, as far as was known at the time of writing. This report provides an update on those proposals.

4. The Draft Localism Bill - Update

- 4.1 The draft Localism Bill was presented to Parliament on 13th December 2010 and received its First Reading in the House of Commons, without debate. The Bill was debated at its Second Reading on 17th January 2011, passed with a vote and is currently being scrutinised by a Public Bill Committee (at the time of writing).
- 4.2 The proposals relevant to the standards regime are contained within Part 1, Chapter 5 (Standards) of the Bill. This section puts forward the following:

Standards Committees – Local authorities will no longer be required to have Standards Committees and the Standards Board for England will be abolished.

Voluntary Code of Conduct – Local authorities will no longer be required to have a code of conduct for Members and co-opted members of the Council. Each council will be free to revise its existing code of conduct, adopt a code of conduct to replace its existing code, or withdraw its existing code of conduct without replacing it. Regardless of whether an authority chooses to have a code of conduct, they will have a general duty to “promote and maintain high standards of conduct by members and co-opted members” of the authority.

Complaints against Members - If a written allegation (a complaint) is made to a relevant authority that a Member or co-opted member of the authority has failed, or may have failed, to comply with its ‘code of conduct’ (or alternative set standards of behaviour) it must consider whether it is appropriate to investigate the allegation and, if warranted, investigate in such a manner as it thinks fit. If a breach is found the local authority will be free to decide whether to take action and what action or sanction is appropriate. The form or procedure that this complaints process might take, who would conduct any investigation and enforce subsequent action is at the discretion of each local authority.

Serious Councillor Misconduct - Regulations will require an authority’s monitoring officer (at the City Council – the Head of Legal and Democratic Services) to establish and maintain a register of members’ interests. Failure to register or disclose an interest or to take part in business of the authority to

which an interest applies, without reasonable excuse, will be a criminal offence dealt with by the courts.

- 4.3 As reported at the last meeting, the Government has previously indicated that a newly empowered Local Government Ombudsman (LGO) will investigate public complaints on behalf the electorate and that local authorities will be legally compelled to implement the Ombudsman's findings. However, there is no mention of this in the draft legislation. This suggests that it will be the responsibility of each local authority to investigate complaints about their Members and that an opportunity for appeal or review would have to be factored into the individual council's complaints procedure, ideally with an independent element for the purposes of instilling confidence in the complainant that the investigation is being handled objectively.
- 4.4 There has not yet been any confirmation of a timeframe for the implementation of these new governance arrangements. However, the Department for Communities and Local Government Draft Structural Reform Plan sets a November 2011 deadline for passing the Bill. With this date in mind, it is expected that the above proposals will come into force in the first half of 2012.

5. Future Considerations

The Standards Committee

- 5.1 The draft Bill provides the City Council (and all Councils) with a choice as to whether to retain a Standards Committee. If the City Council chooses to abolish its Standards Committee the duty to ensure that the Council promotes and maintains "high standards of conduct by members and co-opted members" (as required by the draft legislation) must be transferred to another Committee, Group or Officer(s). However, before such a decision is taken preliminary consideration must be given to what alternative arrangements might be put in place and whether these arrangements would serve the aforementioned purpose more effectively than the Standards Committee process prescribed by Standards for England.

Complaints against Members Procedure

- 5.2 In the absence of a Standards Committee and the 'three sub-committee system' of investigating complaints prescribed by current legislation, the City Council will need to consider if it requires a procedure for dealing with complaints against its Members. This is an opportunity for the City Council to create its own complaints procedure to deal with complaints as the authority sees fit and to break away from the aforementioned complaints system which was broadly considered to be unnecessarily time consuming and overly bureaucratic.
- 5.3 The following arrangements have been drafted for initial early consideration:

The City Council's procedure for complaints received against Members will be divided into three stages.

Stage 1 – Initial Assessment:

The Monitoring Officer (Head of Legal and Democratic Services) will assess the complaint and decide whether the matter requires:

- a) No action – case dismissed.
- b) Action as he considers appropriate (this will ensue from a minor breach).
- c) Referral to a Committee.

If, in the opinion of the Monitoring Officer, the complaint appears to be a potential case of serious misconduct he will refer the matter to a Committee of the Council. This may be a sub-committee of the Cabinet or the General Purposes Committee/Audit & Performance Committee.

The complainant and the Member in question will be informed of the Monitoring Officer's decision in writing.

Stage 2 – Committee Assessment:

The Monitoring Officer will report the matter to a Committee/Sub-Committee of the Council with a co-opted Independent Member. If the Committee finds no breach in any Code it may have on behalf of the Member in question, no further action will be taken and the complainant will be informed of the decision in writing.

If a breach is suspected the Committee will investigate the matter further. This may result in a sanction being enforced as it deems appropriate.

In the event that the Committee dismisses the complaint without action or further investigation, the complainant will have the right to appeal. The appeal must be submitted in writing, clearly stating the reasons why the appeal has been requested. In this circumstance the case will pass to Stage 3.

Stage 3 – Review:

The complainant's appeal will be referred to the Head of Paid Service (Chief Executive). The Head of Paid Service will then decide whether to refuse the appeal or conduct a review of the case. In the event that a review is undertaken the Head of Paid Service may enforce a sanction as he deems appropriate.

- 5.4 No timescales have been suggested at this early stage of consideration. However, the LGO guidance in respect of complaints is that the whole process should take no longer than 12 weeks from receipt to resolution.
- 5.5 It is important to ensure that, once a complaint is accepted, both the complainant and the Member in question are fully informed of each stage of

the process, the decisions taken and the timescales involved. This would be factored into any potential complaints process as a key consideration.

- 5.6 Any new procedure must be set out in a formal complaints policy and made available to the public and Council officers. The above procedure is, at this stage, an early draft of what might work effectively for the City Council. Subject to views on the future of the Standards Committee, Legal and Democratic Services officers, in consultation with Members, will work with the City Council's Corporate Complaints Manager to develop a complaints procedure and ensure that Westminster has appropriate arrangements in place when the Localism Bill is passed.

Voluntary Code of Conduct

- 5.7 As stated above in paragraph 4.2 local authorities will no longer be required to have a code of conduct for Members and may revise, adopt or repeal their existing code of conduct as they wish. It is recognised that, to be able to assess whether Members have failed to fulfil their duties as a Councillor of the authority, these duties must be set out. However, whether the existing Code of Conduct should remain is something to consider. Rather than Members being bound by a code that they must sign-up to, perhaps the City Council should instead adhere to a more general 'policy of Members' duties' which is not dictatorial, but relies more upon Members' integrity, common sense and understanding of their role?
- 5.8 As the Committee will be aware the Members' Code of Conduct begins with a list of general principles such as objectivity, honesty and integrity and accountability, stating how each principle applies to the standards of conduct expected from Councillors of the authority. Perhaps these principles are enough to guide Members as to what is acceptable conduct and what is not? The views of the Committee are sought on this subject.

6. Conclusion

- 6.1 Formal changes to the City Council's standards framework will not be required until the beginning of 2012 and it may be that the Bill will, at least in some respects, be amended and evolve as it passes through Parliament. It will be important for the City Council to continue to consider, at each stage of the Bill process, what future governance arrangements it will establish to maintain and self-regulate its existing high ethical standards. Legal and Democratic Services officers will continue to update the Committee and report on the progress of the Bill (and any relevant guidance issued) in the context of standards and ethical governance.

If you have any queries about this report or wish to inspect any of the Background Papers, Please Contact Naomi Stauber
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Background Papers

- Standards Committee Report - Future of the Standards Regime, 15 November 2010