

**HAMPSHIRE COUNTY COUNCIL****Report**

<b>Decision Maker:</b>	Standards Committee
<b>Date:</b>	8 February 2011
<b>Title:</b>	Changes to the standards regime in England
<b>Reference:</b>	2619
<b>Report From:</b>	The Chief Executive

**Contact name:** Barbara Beardwell **Tel:** 01962 845157

**Email:** barbara.beardwell@hants.gov.uk

**1. Executive Summary**

- 1.1. The purpose of this paper is to update the committee on the proposed changes to the standards regime in England set out in the Localism Bill
- 1.2. The arrangements which the Bill proposes to put in place will allow local authorities to make their own decisions as to how to regulate the conduct of their members. In addition new criminal offences will be introduced, relating to failure of local authority members to register or disclose interests and their participation in local authority business contrary to prohibitions or restrictions

**2. Contextual information****2.1. Standards Committee**

- 2.2. The Localism Bill contains provision which will abolish the requirement for the County Council to have a Standards Committee in a prescribed form and with prescribed membership.
- 2.3. The County Council may however choose to retain a Standards Committee (with or without independent members) to perform its duty to ensure that members and co-opted members maintain a high standard of conduct and to administer any local scheme adopted for dealing with complaints against members.
- 2.4. The function of granting exemptions from political restriction (currently exercised by the Standards Committee) will become the responsibility of the Chief Executive
- 2.5. The Localism Bill contains the ability for transitional provisions to be introduced. Guidance issued by DCLG suggests that the current regime

will continue in its normal manner until approximately 2 months after the Bill receives Royal Assent.

This means that until that time allegations of misconduct can still be made under the current regime. The proposed transitional arrangements suggest that any cases in the system on the date the regime finishes will make their way through the transitional regime.

It is proposed that under this regime any cases being dealt with by Standards for England will transfer back to the County Council for determination and that the County Council's Standards Committee would remain established until the last complaint has been dealt with. The right of appeal will not exist for cases under the transitional regime and the sanction of suspension will be removed from the Standards Committee for the transitional period.

**2.6. Standards For England**

2.7. The Bill allows the Secretary of State to make provision by order for the abolition of Standards for England. The Secretary of State has already made it clear that he intends to do this. The statutory provisions which required the County Council to submit reports to Standards for England and enabled it to refer some allegations of breach of its code of conduct to Standards for England are to be repealed

**2.8. Code of Conduct**

2.9. The Bill includes a duty on the County Council to ensure that members and co-opted members maintain a high standard of conduct. However, unlike the Local Government Act 2000, which requires the County Council to adopt a code of conduct based on a national model code, the Bill provides that the County Council may adopt a code of conduct but it is not obliged to do so. The Bill provides for the County Council's current code of conduct to cease to have effect, and for undertakings to comply with the code to cease to have effect when the code ceases to have effect.

2.10. The County Council will be able to either:

- revise its code of conduct,
- adopt a replacement code or
- withdraw its code without replacing it.

Any voluntary code adopted by the County Council will only apply to members and co-opted members when they are acting in their official capacity.

The County Council may publicise its adoption, revision or withdrawal of a code of conduct in any manner it considers appropriate.

- 2.11. The detailed statutory provisions which specify how the County Council must deal with allegations of breaches of its code of conduct are to be repealed. The Bill provides that if the County Council receives an allegation that a member has acted in breach of the code:
- it must consider whether it is appropriate to investigate it and,
  - if it decides that an investigation is appropriate, it must investigate in the manner it thinks fit.
  - If the County Council finds that a member or co-opted member has failed to comply with its code of conduct the County Council may have regard to the failure in deciding what if any action to take.

Possible actions available to the County Council include deciding that it is necessary to censure a member or to restrict his or her access to the County Council's officers, premises and facilities.

2.12. **Member's interests**

- 2.13. The Localism Bill gives the Secretary of State the power to introduce regulations requiring the Monitoring Officers to establish and maintain a register of member's interests. The regulations may:
- specify interests to be registered;
  - require members to disclose interests;
  - prevent or restrict members' participation in business if they have an interest;
  - allow the County Council to provide for dispensations from such restrictions;
  - provide for the County Council to impose sanctions on members and co-opted members for failure to comply (these sanctions may not include suspension or disqualification),
  - require the register to be publicly available.

The areas covered by the ability to make regulations coincide closely with the current requirements on members in respect of the Register of Member's Interests as set out in the Local Government Act 2000. It is therefore unlikely that these provision will involve significant practical changes to current arrangements.

A highly significant change however is that the Localism Bill makes provision for criminal offences if a member or co-opted member acts in breach of regulations relating to members' interests by:

- failing to register interests;
- failing to disclose an interest before participating in business of the County Council relating to the interest, or
- taking part in business of the County Council contrary to any prohibition or restriction imposed by the regulations.

A prosecution may only be brought by or on behalf of the Director of Public Prosecutions. Proceedings may be brought within twelve months of the prosecutor having sufficient evidence to initiate the proceedings but no later than three years after the offence.

A person who is convicted of such an offence is liable to a fine not exceeding level 5 on the standard scale. A court may also make an order to disqualify such a person from being or becoming a member or co-opted member for a period of up to five years

#### **2.16 Timescales**

2.17 The Localism Bill is a flagship of the Coalition Government's legislative programme and as such it is anticipated that it will receive Royal Assent in the late summer. The Bill has only recently had its second reading so there is still much scope for the Bill to be amended and developed before it becomes an Act

### **3. Recommendation**

3.1. That the Committee notes the proposed changes to the Standards regime in England resulting from the Localism Bill

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	N/A
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	N/A
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	N/A
Corporate Improvement plan link number (if appropriate):	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None

**IMPACT ASSESSMENTS:**

**1. Equalities Impact Assessment:**

1.1. N/A

**2. Impact on Crime and Disorder:**

2.1. N/A

**3. Climate Change:**

a) How does what is being proposed impact on our carbon footprint / energy consumption?

N/A

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

N/A