

SC/001/10

Committee Standards Committee

date

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Report to update the Committee in relation to changes to the Standards regime proposed in the Localism Bill

1. Purpose of the Report

To advise members of the changes to the Standards regime proposed in the Localism Bill.

2. Background

The coalition government is taking forward the proposals in the Conservative manifesto to abolish the standards regime in its current form. The bill was published in December 2010 containing those proposals.

3. Proposal

That members should consider the report and note the proposals in the bill. It is proposed that officers keep members advised of developments and that in the future there should be a discussion about the future of the regime in Essex.

4. Report

In summary the government's proposals are:

- to abolish Standards for England
- to remove the First-tier Tribunal's (Local Government Standards in England) jurisdiction over member conduct
- to remove the national Code of Conduct for councillors and the requirement to have a standards committee
- to allow councils to choose whether or not they wish to have a local code or a standards committee
- to create a criminal offence relating to failure to register or declare interests

In place of the national regime a local approach to standards is proposed. For relevant authorities (per clause 15(4)) will (by clause 15(1)) be under a duty to 'promote and maintain high standards of conduct by authority members and co-opted members'. Whilst the power of the Secretary of State to issue a model code of conduct in England will be removed (and consequently the duty on authorities in England to adopt it), relevant authorities in England will (by clause 16(1)) be empowered to adopt a code 'dealing with the conduct that is expected' of authority members and co-opted members 'when they are acting in that capacity'.

To this end (per clause 16(2)) a relevant authority may: revise its existing code of conduct, adopt a code to replace its existing one or withdraw its existing code without replacing it. If a written allegation is made to an authority (as at present) that a member has or may have failed to comply with the code of conduct an authority must still 'consider whether it is appropriate to investigate the allegation' and, if it decides that it is, it must 'investigate the allegation in such manner as it thinks fit'. If a member is found to have breached the code of conduct, an authority 'may have regard to the failure' in deciding whether to take action and if so what action to take. An authority 'may publicise its adoption, revision or withdrawal of a code of conduct in any manner that it considers appropriate'.

The Secretary of State may (by clause 17) to make provision for requiring the monitoring officer to establish and maintain a register of member interests which may (amongst others) deal with the financial and other interests and other matters indicated in clause 17(2). This includes provision for potential sanctions which an authority may impose (other than suspension or disqualification) and requiring copies of the register to be made publicly available. By clause 18 it will be a criminal offence for a member without reasonable excuse to fail to register or disclose a specified interest or to breach relevant regulations. On conviction the court may by order disqualify a member for up to five years. However, a prosecution under this section may be mounted only by or on behalf of the Director of Public Prosecutions. No prosecution may be brought more than three years after the commission of the offence or (in the case of continuous contravention) after the last date on which the offence was committed. However, by clause 18(5) proceedings are usually likely to be brought within 12 months from 'the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge'.

There are transitional provisions in relation to the regime. This is intended to meet the expectation of those who had made allegations that their allegations would be properly dealt with. It also ensures that if a member has an allegation made against them, they should have the opportunity to clear their name. The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with. Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date. The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of

protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England). Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training.