



Standards Committee

23 January 2012

The Future of Standards – Localism Bill

Summary of Report

This report is to inform the Standards Committee about key changes to the Standards regime arising from the Localism Act 2011.

Recommendations

The Standards Committee is recommended to:

- (1) Note, following discussion, the contents of the report;

Resource Considerations:

Financial:

None arising from this report

Legal:

Legal implications are contained within the body of the report.

Staffing:

None arising from this report

Citizen Impact:

None arising from this report

Community Safety:

None arising from this report

Environmental:

None arising from this report

Performance and Risk Management:

Risk:

None arising from this report

Performance Management:

None arising from this report

Equality Implications:

This report complies fully with the Council's policies on equality and diversity

Consultation:

As detailed in the recommendations

Background papers

All published

Signed:

Tony Cox

Head of Legal & Democratic Services and Monitoring Officer

Date: 9 January 2012

Contact Officer

Tony Cox

Head of Legal & Democratic Services and Monitoring Officer

☎ 01922 654822

✉ coxt@walsall.gov.uk

Background

The Localism Act received Royal Assent on 15 November 2011. The standards provisions contained within the Act are expected to come into force on 1 April 2012.

The Act brings together a number of fundamental changes to the standards regime and it will be necessary for the authority to make arrangements which comply with the new legal requirements. The key provisions of the Localism Act are:

- The abolition of Standards for England.
- The authority will continue to have a duty to 'promote and maintain high standards of conduct by members and co-opted members of the authority' (as detailed in section 27) but there will no longer be a requirement for the establishment and maintenance of a Standards Committee.
- The authority will be required to have a code of conduct for both their elected and co-opted members. There will be no national mandatory code and the authority may choose to adopt its own code or revise the existing one. The Code needs to be consistent with the Nolan principles for conduct in public life which should be consistent with the principles of: selflessness, integrity, objectivity, openness, honesty and leadership.
- Under the new Code, members must register and disclose their pecuniary and non-pecuniary interests and it will be a criminal offence for a member to fail, without reasonable excuse, to comply with these requirements.
- The authority must put in place a system for investigating allegations that the Code of Conduct may have been breached. The Act does not detail what these arrangements should be and leaves it open for the authority to determine its own approach.
- The authority must appoint at least one independent member whose views must be taken into account before any decision is reached on a potential breach of the Code of Conduct. The member against whom the complaint has been made may also seek the views of the independent member. There is some uncertainty as to whether the current independent members of Standards Committee will be eligible to sit on Committee under the new arrangements.
- Currently there is some uncertainty as to the sanctions which will be available to the authority under the new ethical framework.

- The Act clarifies the common law concept of 'predetermination' and makes it clear that it is proper for members to take an active part in local discussions and ensures that they should not be open to legal challenge as a result.
- It will be necessary for the Monitoring Officer to establish and maintain a register of elected and co-opted member's interests and to determine the information contained on the register. The register must be published on the authorities website and be available for public inspection. No specific mention has been made regarding the registration of gifts and hospitality and this will need to be determined by the authority in its Code of Conduct.

Timescale:

On 23 December 2011, the Local Government Lawyer reported that, in a letter to the Association of Council Secretaries and Solicitors, the Department for Communities and Local Government wrote that while Standards for England would cease to regulate member standards from 31 January 2012 " .. we envisage that the remaining local elements of the current regime, including statutory Standards Committees with the power to suspend councillors, will be abolished on 1 July 2012 ..". The Department for Communities and Local Government was responding to concerns expressed by the Association of Council Secretaries and Solicitors that the original proposed implementation date of 1 April for the new standards regime was impracticable, in part due to the timing of local elections and meetings in spring. They further advised that from 1 July onwards, all local government standard matters (including the consideration and determination of outstanding complaints made during the period the Standards Board regime was operating) will become the responsibility of the authority and will be dealt with under the new arrangements imposed by the Localism Act.

The decision to delay the implementation of the new standards regime until 1 July means that the Government has more time to prepare the outstanding regulations defining what constitutes a "disclosable pecuniary interest" as required by Section 30(3) of the Localism Act.

In its letter, the Department of Communities and Local Government advised that it recognised that local authorities would need sufficient time to 'advertise for and then appoint an "independent person" and put in place arrangements for handling allegations of breaches of the Code'.

Implementation of the new regime:

The authority will need to consider the following issues:

- To arrange for the recruitment of independent member(s) required by Section 28(7) to 28(10) of the Localism Act. The authority will also need to decide if more than one independent member will be required on the Committee.
- Whether the existing Code of Conduct for members (with any revisions required by the Localism Act) should be adopted as the new Member's Code of Conduct or whether an entirely different Code should be adopted.
- Whether the authority should establish a new 'voluntary' Standards Committee and agree on the form it should take.
- What 'arrangements' the authority should adopt to investigate complaints that a member has failed to comply with their Member Code of Conduct. These 'arrangements' also need to consider what sanctions should be imposed where a member has failed to comply with their Code of Conduct.

It should be noted that the timescale for the preparation of the new regime may slip in the event that the Government delays publishing the outstanding regulations required by Section 30(3) of the Localism Act relating to disclosable pecuniary interests.