

The Localism Bill and the Way Forward for Standards

Report of the Clerk and Monitoring Officer

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1 Purpose of Report

This report provides a summary of the changes proposed in the Localism Bill. It also asks the Standards Committee to make recommendations to the Fire Authority regarding the process for developing an ethical framework, which will conform to the requirements of the Bill.

2 Recommendations

The Committee is asked to:

- a) Note the proposals outlined in the Localism Bill;
- b) Make recommendations to the Fire Authority regarding the process for developing an ethical framework, which will conform to the requirements of the Bill; and
- c) Agree that the Committee recommend to the Fire Authority that Mr Michael Tebbutt and Mr Paul Brereton are appointed Independent Members of the Standards Committee from the expiry of their second and first terms respectively for an indefinite period, pending developments relating to the provisions of the Localism Bill.

3 Background

The Localism Bill is currently progressing through the House of Commons and House of Lords. It is likely to receive Royal Assent soon and in any event no later than the end of the year.

In the context of standards and the ethical framework the Bill contains proposals to abolish the Standards for England regime. Although originally the Bill removed the requirement for relevant authorities (which includes fire authorities) to have a mandatory code of conduct, subsequent amendments require such authorities to adopt a code of conduct consistent with the Nolan Principles of Public Life.

This report sets out the latest position and asks the Committee to consider how the Fire Authority might meet the Bill's requirements.

Unless otherwise stated any reference in this report to a 'member' includes also a co-opted member (in the case of this authority a non-elected, independent member of the Standards Committee).

4 Summary of Changes Proposed in the Localism Bill

The proposals outlined in the Bill are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles governing the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked.
- The Local Authorities (Model Code of Conduct) Order 2007 (S.I. 2007/1159), which prescribes the model code of conduct to apply to members of relevant authorities, will be revoked.
- Standards for England (SfE) will be abolished. As SfE (originally known as the Standards Board for England) was established by the Local Government Act 2000 and the regulator for local authority standards committees, primary legislation is required to abolish it and its legislative functions.
- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members.
- Authorities will be required to adopt a code of conduct, which is consistent with the Nolan Principles of Public Life, namely:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty and
 - Leadership

- Within the new code there must be provision for members to register and disclose **pecuniary and other interests** (as opposed to the current regime of registering and declaring personal and prejudicial interests). Disclosable pecuniary interests will include the interests of a member's spouse, civil partner or partner. The Government intends that wilful failure to comply with these requirements will constitute a criminal offence.
- The Bill makes provision for the non-disclosure of 'sensitive interests', i.e. where the member and Monitoring Officer consider that disclosure of the interest could lead to the member, or a person connected with them, being subject to violence or intimidation.
- An authority may grant to a member a dispensation relating to pecuniary interests under specified circumstances, enabling the member to participate in business, from which they would otherwise be precluded.
- The requirement for local authorities to maintain a standards committee will be abolished. They must, however, have in place arrangements under which allegations regarding failure to comply with the authority's code of conduct can be investigated and decisions on allegations can be made.
- Such arrangements must include the appointment of at least one independent person, whose views are to be sought, and taken into account, by the authority before making a decision on the allegation. Their views may also be sought where an authority decides not to investigate. In addition, a member, against whom an allegation has been made, may seek the views of the independent person.
- In addition to being available for inspection at a place in the authority's area at all reasonable hours, the register of interests of members and co-opted members must be published on the authority's website.

It is anticipated that the Bill may receive Royal Assent as early as November 2011. However, the present conduct regime will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day").

5 The Way Forward

The Standards Committee now needs to consider how the provisions of the Bill might be implemented and make recommendations accordingly to the Fire Authority. With its knowledge and experience the existing Committee would appear to be the best vehicle to take this matter forward. At this stage it is appreciated that this will be more of a strategic view, as the details as to how the new ethical framework will look will be uncertain until both the Bill receives royal assent and government regulations and guidance are issued.

However, the Committee's initial views on the proposals in the Bill will allow officers to undertake some preparatory work and return to the Committee in the New Year with more detailed options for the new standards regime.

6 Current Arrangements

Until the provisions of the Localism Act come into force, the existing ethical framework remains. Accordingly, this Committee will continue to be required to provide the facility to assess and process Code of Conduct complaints.

The Committee currently has four Independent Member places with two vacancies. Standards for England have previously stated that Independent Members should serve four year terms and for no longer than two full terms. However, in 2010 Standards for England changed that view and, with the impending provisions of the Localism Bill, they stated that Independent Members could continue to serve beyond that. In order to recognise formally that provision it is suggested that this Committee ask the Fire Authority to confirm the reappointment of both Mr Michael Tebbutt and Mr Paul Brereton to continue their term of office from the expiry of their second and first term respectively to such a time that this Committee recommends otherwise (as a result of developments relating to the provisions of the Localism Bill).

7 Financial Implications

The current legislative framework for dealing with an allegation of breach of the code of conduct is cumbersome, time-consuming and costly. Fortunately, the Fire Authority has not, to date, needed to implement this framework.

The opportunity to deal with an allegation expeditiously and efficiently under locally agreed procedures would reduce any potential financial burden in the future.

8 Legal Comment

If this Committee looks at the provisions regarding standards, as set out in the Localism Bill, it would comply with its following terms of reference:

“To promote and maintain a high standard of conduct by Members, to oversee the Register of Members' Interests and to oversee the effectiveness of the Authority's procedures for investigating and responding to complaints about Members”

“To advise the Authority on the adoption or revision of the Members' Code of Conduct”

The other legal comments on this matter can be found within the main body of the report.

9 Equality Impact Assessment

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

10 Appendices

There are no appendices attached to this report.

11 Background Papers

UK Parliament Localism Bill