

**Committee: STANDARDS**

**Agenda Item**

**Date: 22 November 2010**

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**Title: PROPOSED DECENTRALISATION AND  
LOCALISM BILL**

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Item for information

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## Summary

1. This report is to inform members of information which has become available regarding the likely content of the proposed Decentralisation and Localism Bill.

## Recommendations

2. That members note the report.

## Financial Implications

3. There are no costs associated with this report.

## Background Papers

4. None.

## Impact

- 5.

Communication/Consultation	It appears that the Government does not intend consulting on its proposals to abolish the current standards regime.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	In the event that the proposals do become law, the Council may be at a higher risk of legal action.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

6. At its meeting on the 21 June, the Committee considered a report setting out various options that the Government could adopt pursuant to its stated intent to abolish 'the standards board regime'. Since the preparation of that report, public statements of government ministers have made the Government's position clearer than it was at that stage.
7. In that report I speculated that the least likely option was the repeal of part 3 of the Local Government Act 2000 and the abolition of the first-tier tribunal. However, ministerial statements indicate that this is precisely what the coalition Government intends to do.
8. The proposed legislative timetable (clearly subject to possible amendment and delay) is that the proposed bill would receive royal assent in or about September 2011 and would become effective in April 2012.
9. The key points of the bill are that the Standards Board, model codes of conduct and the statutory requirement for a standards committee should all be abolished. In their place there would be a new statutory register of interests and it will be a criminal offence for members to fail to register or declare interests or to deceive the public. There is no suggestion however, that members should withdraw from the chamber when what is now defined as a prejudicial interest is under consideration. The remit of the Local Authority Ombudsman is to be widened to include investigating complaints of incompetence on the part of councillors and there are to be provisions to enable the electorate to call for an individual member to stand for re-election.
10. The abolition of the code of conduct will mean that members will no longer run the risk of being reported to the standards committee for breaching equality legislation, bullying, compromising the impartiality of staff, breaching confidentiality, refusing access to information, misusing the position of councillor for personal advantage, misusing council resources, breaching the local authority code on publicity, failing to have regard to the advice of the section 151 officer or monitoring officer when acting in a statutory capacity or failing to give reasons for decisions.
11. With regard to the proposed new offence of failing to register or declare interests or misleading the public, this will of course be subject to the criminal standard of proof (beyond reasonable doubt) as opposed to the civil standard of proof applied by standards committees (the balance of probabilities). Further, unless the member is sentenced to a term of imprisonment of three months or more he or she will remain as a member.
12. Although if the suggested reforms are passed there will be no statutory obligation for there to be a standards committee, nevertheless local authorities do have the power to self-regulate their affairs. In particular, there is power to restrict a member's access to council premises and staff, to withdraw or limit use of council facilities and to remove from committees/outside bodies/the executive. Removal of a member from a committee or outside body would

require the consent of the member's group leader or if the member is an independent who is not a member of a political group a motion of the appointing body. This is because of the rules of political balance. The removal of a member from the executive of the council can only be achieved by the Leader of the Council. The authority does have power to establish a non-statutory standards committee if it should wish where the membership and terms of reference of that committee would be a matter for the council rather than legislation. Similarly the Council may voluntarily adopt a code of conduct which it expects members to follow but this again would not be prescribed by statute.

13. Although councils may regulate themselves the abolition of statutory standards committees would mean that the district council's involvement in standards of conduct for town and parish councillors would cease. Town and parish councils may regulate their own affairs but given the structure of most parish councils, in the absence of any power of suspension, there would appear to be little available in terms of sanction other than a public censure.
14. The current term of office of members of the Standards Committee expires after the elections in May 2011. Subject to the independent members consenting it is proposed that the Council be asked to extend the period of office of the independent members beyond the elections to avoid the costs of the advertisement and the recruitment process. It is also intended to ask the Council to re-appoint the existing town and parish representatives after the election.
15. It would not be appropriate for the Standards Committee to make recommendations to the Council regarding the establishment of a non-statutory standards committee. It is therefore intended that once the legislation receives royal assent the Constitution Task Group should consider the way forward and make appropriate recommendations to the Council. In the event that the task group recommends and the Council approves the appointment of a non-statutory standards committee it would then be appropriate for the Standards Committee to make recommendations to the Council with regard to a voluntary Code of Conduct.

## Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The Government repeals part 3 Local Government Act 2000.	4, this is now stated government policy.	3, there is currently insufficient clarity as to the proposed offence of failing to register/declare interests give comfort that	The council should consider whether to adopt a voluntary standards regime once the full extent of the legislation becomes clearer.

		public confidence in local government will be maintained and the abolition of a number of code 'offences' increases the risk that the council will be brought into disrepute.	
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.