

Bath & North East Somerset Council

MEETING:	Council
MEETING DATE:	15 th September 2011
TITLE:	PROPOSED CHANGES TO THE STANDARDS REGIME
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
None	

1 THE ISSUE

- 1.1 At its meeting on 19th May 2011, the Council resolved to ask the Standards Committee to review its procedures for investigation of complaints and report back in September with the intention of submitting proposals for the implementation of the Localism Bill currently before Parliament (in respect of the Member conduct aspects of the Bill), and making the system fairer to those people who are the subject of a complaint.
- 1.2 The Standards Committee considered both issues at its meeting on 23rd June 2011.

2 RECOMMENDATION

Council is asked to agree that:

- 2.1 The Council adopts a non-statutory Code of Conduct based on paragraphs 3 - 7 of the current model or a model to be issued by the Local Government Association;
- 2.2 A Standards Committee is established;
- 2.3 The Committee's membership includes Independent Members and an Independent Member chairs the Committee;
- 2.4 Parish/Town Councils within the Council's area which adopt a non-statutory Code of Conduct should, if possible, be offered an opt-in to deal with complaints against Parish/Town Councillors;
- 2.5 The current Local Standards Framework should be reviewed with the aim of making the system fairer and streamlining the current processes and procedures, in the following respects:

- (1) The Monitoring Officer should assess complaints to decide whether the alleged conduct breaches the Code;
- (2) Subject councillors should be given details of the complaint, including the name of the complainant and which parts of the Code they are alleged to have breached. They would be invited to submit comments before the allegation is considered by the Committee;
- (3) If the Committee considers that there has been a breach which is trivial or has been corrected, it would be dealt with at the meeting. Only serious breaches would be referred for investigation;
- (4) The pre-hearing meeting should be abandoned.; and
- (5) Results of hearings should be published on the Council's website. The requirement for expensive notices published in a local newspaper should be abandoned.

3 FINANCIAL IMPLICATIONS

3.1 The proposals will need to be managed within current resources. The Committee considered the proposals represented modest savings compared to the current regime.

4 THE REPORT

4.1 The Localism Bill will place a new duty on local authorities in England to promote and maintain high standards of conduct among elected and co-opted members of the authority but remove the present means of discharging this duty by abolishing the General Principles, the Model Code of Conduct, Standards for England and Standards Committees. There will be a new statutory Register of Members' Interests with criminal penalties for failure to comply.

4.2 **Code of Conduct** - The Bill envisages that authorities may wish to adopt their own non-statutory Code of Conduct. The simplest course would be to re-adopt the general conduct provisions in paragraphs 3-7 of the Model Code, as these are the parts which will not be replaced by the new statutory interests regime. However, the Bill also provides that, where a local authority adopts a non-statutory Code of Conduct, it must then respond to any written complaints that a member or co-opted member has failed to comply with that Code by considering whether the matter should be investigated and, if satisfied by the investigation that a member or co-opted member has failed to comply, decide what action if any to take. The Bill does not give the local authority an express power to impose sanctions on members who fail to comply with a voluntary code. There would, however, be considerable freedom to delegate more of the process, enable speedier investigation and resolution of simple matters than is the case with the current system.

4.3 **Independent Members** - The Standards Committee agreed that an important part of the standards regime is that it is fair and impartial – not seen as Councillors judging Councillors – and that the public perceives it as such. This public perception relies heavily on the presence of independent, co-opted Members and an independent Chair. However, Councillors should note that, in general, co-opted Members do not have voting rights.¹ This issue has been raised with the Government which could, if it considers it to be appropriate, introduce an amendment to the Localism Bill or regulations to allow co-opted members full voting rights on non-statutory standards committees.

4.4 The Bill provides for a statutory Register of Members' Interests (including co-opted members) with criminal penalties for failure to comply.² The Committee also

¹ *The current provisions requiring the appointment of independent members to Standards Committees will be repealed along with the other requirements of the current standards system. Section 102(3) of the Local Government Act would enable the co-option of non-councillors on to a new Standards Committee, but section 13 of the Local Government and Housing Act 1989 prevents them from having a vote on the committee unless it is purely advisory.*

² *These regulations may make provision for i) specifying the financial and other interests be registered, ii) requiring disclosure of interests, iii) preventing or restricting the participation of a member or co-opted member with a disclosed interest in any business of the Council to which the interest relates, iv) enabling the Council grant dispensations in specified circumstances from a prohibition imposed in accordance with iii) above, v) enabling the Council to impose sanctions on a*

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noted that the provisions for a statutory Register of Interests will apply to Parish and Town Councils who will have to decide whether to adopt a Code of Conduct and make arrangements for investigating breaches. The Standards Committee proposed that the Council offers to handle complaints for those Parish and Town Councils which adopt a non-statutory Code of Conduct, and, if so, that Parish Councillors be offered places on the Standards Committee, as is the current practice.

4.5 A cross-party group of Peers is to attempt to strengthen the Standards provisions in the Localism Bill by September by pursuing provisions for i) a national Code of Conduct (to be issued by the Local Government Association, if it agrees), ii) Standards Committees with independent chairs and iii) the removal of criminal sanctions.

4.6 It is expected that the Bill will receive Royal Assent in late 2011. The current standards regime will continue to function until a fixed date, probably two months after the Bill receives Royal Assent. Complaints made before that date will be considered under the current, statutory regime.

5 RISK MANAGEMENT

5.1 Public confidence in elected Members is key to effective local government and so a robust complaints system is needed.

6 EQUALITIES

6.1 One key principle of the Code of Conduct is that Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. The Code requires Members to respect the impartiality and integrity of the Authority's Statutory Officers, and its employees.

6.2 It is not considered that the proposals will have any impact on persons with protected characteristics.

7 CONSULTATION

7.1 Standards Committee; Monitoring Officer.

7.2 This is the report of the Standards Committee and represents their conclusions having sought comment thereon.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 Social Inclusion; Customer Focus; Human Rights; Corporate.

9 ADVICE SOUGHT

9.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Vernon Hitchman, Monitoring Officer Sue Toland, Independent Chair of the Standards Committee
Background papers	Report and minutes of Standards Committee
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