

AGENDA

Standards Committee

Date: **Friday 14 January 2011**

Time: **2.00 pm**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Heather Donaldson, Democratic Services Officer

Tel: 01432 261829

Email: hdonaldson@herefordshire.gov.uk

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Agenda for the Meeting of the Standards Committee

Membership

Chairman	Robert Rogers	Independent Member
Vice-Chairman	David Stevens	Independent Member
	Jake Bharier	Independent Member
	Isabel Fox	Independent Member
	Richard Gething	Parish and Town Council Representative
	John Hardwick	Parish and Town Council Representative
	John Stone	Local Authority Representative
	Beris Williams	Local Authority Representative

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

		Pages
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	DECLARATIONS OF INTEREST To receive any declarations of interest by members in respect of items on the agenda.	
3.	MINUTES To approve and sign the minutes of the meeting held on 22 October 2010.	5 - 10
4.	APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS To consider applications for dispensations received from parish and town councils.	11 - 16
5.	THE FUTURE OF THE LOCAL GOVERNMENT STANDARDS FRAMEWORK To consider the present outlook for standards and ethics in local government, and the future role of the Committee.	17 - 24
6.	EXCLUSION OF THE PUBLIC AND PRESS In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are considered. RECOMMENDATION: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. 7A Information which is subject to an obligation of confidentiality.	
7.	LOCAL FILTER CASES AND DETERMINATIONS To update the Committee on progress made with complaints about local authority, parish and town councillors.	25 - 44

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. A list of the background papers to a report is given at the end of each report. A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 22 October 2010 at 3.00 pm

Present: Robert Rogers (Chairman) (Independent Member)
 David Stevens (Vice Chairman) (Independent Member)
 Jake Bharier (Independent Member)
 Richard Gething (Parish and Town Council Representative)
 John Hardwick (Parish and Town Council Representative)
 Beris Williams (Local Authority Representative)

24. APOLOGIES FOR ABSENCE

Apologies were received from Ursula Attfield (Substitute Parish and Town Council Representative), Isabel Fox (Independent Member) and John Stone (Local Authority representative).

25. INTERIM ASSISTANT CHIEF EXECUTIVE (LEGAL AND DEMOCRATIC)

The Committee noted that Ms C Adan, Interim Assistant Chief Executive (Legal and Democratic), would be leaving Herefordshire Council on 26 November 2010, and received information about the arrangements in place until the arrival of the newly appointed Assistant Director of Law and Governance and Monitoring Officer, Mr Chris Chapman. Members thanked Ms Adan for the effective support that she had provided to the standards framework and to the Committee.

26. DECLARATIONS OF INTEREST

There were no declarations of interest made.

27. MINUTES

RESOLVED: (unanimously) that the minutes of the meeting held on 02 July 2010 be approved as a correct record and signed by the Chairman.

28. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS

There were no applications for dispensations received.

29. ANNUAL GOVERNANCE REPORT 2009/10

The Committee considered the external auditors' Annual Governance Report for 2009/10, which outlined their opinions and recommendations about the Council's financial statements for 2009/10, arrangements for securing value for money, and further improvements to the Council's governance arrangements arising from their audit work.

Members noted that there was an obligation in the Council's Code of Governance that the Standards Committee would receive an annual report on the effectiveness of the Code. This was because ethical governance formed part of the review. The report indicated that the Council was following the Code of Governance correctly, and had continued to demonstrate improvements in this area and in the use of resources.

RESOLVED: (unanimously) that the report be noted.

30. STANDARDS FOR ENGLAND BULLETIN 48

The Committee considered the latest Bulletin from Standards for England (SfE). Matters relating to the proposals for Standards for England and the Standards Framework were taken together with the next agenda item (The Future of the Local Government Standards Framework) due to their common content.

Members noted the SfE guidance on the re-appointment of independent members, given the current uncertainty regarding the future of the Standards Regime. The SfE advised that it might be preferable to retain members who had been trained and understood their role rather than seek to recruit and appoint new members at this time.

RESOLVED: (unanimously) that the report be noted.

31. THE FUTURE OF THE LOCAL GOVERNMENT STANDARDS FRAMEWORK

The Committee considered a report in respect of proposed changes to Standards for England (SfE) and the local Standards framework, through the proposed Decentralisation and Localism Bill due to be published later in 2010. The Bill included proposals to 'abolish the Standards Board regime'. The budget for Standards for England (SfE) had also been reduced for the current year by £1.45m (18%). The SfE was of the view that the process was likely to lead to its final closure sometime between 31 December 2011 and 31 March 2012, but as yet there was no indication of any transitional arrangements. Since the initial announcement in the "Programme for Government" on 20 May 2010, some further information had emerged about how the local Standards framework would be dealt with, as follows:

- Communities Minister Andrew Stunell had announced that serious misconduct for personal gain would become a criminal act and that the SfE regime would cease. Mr Stunell's view was that the standards regime had become a vehicle for malicious and frivolous complaints and had resulted in considerable costs having to be met by Councils to deal with them. He said that local standards committees had investigated some 6,000 complaints in the first two years of the regime and that over half of these had been judged not to be worthy of any further action. His aim was to introduce legislation so that all serious misconduct by councillors would become a criminal offence dealt with by the courts, instead of the current arrangements where some matters were dealt with by the Monitoring Officer and the Standards Committee.
- Greater importance would be attached to councillors registering personal interests in a public register, and sanctions would be imposed against those failing to register or declare an interest or deliberately misleading the public. The Minister believed that this would help to instil confidence in voters, and give assurance to councillors that investigations over petty allegations would cease. He added that the public should address unsatisfactory performance of councillors via the ballot box. Greater powers would be given to the Local Government Ombudsman, compelling local authorities to implement any Ombudsman recommendations.
- The Government also intended introducing legislation to make it clear that councillors would be able to campaign and vote freely on local ward issues. Councillors who had previously been prevented from speaking about the issues they had been elected on, such as planning matters, would have greater freedom to express their views.

During the ensuing discussion, the Committee raised the following key points and questions:

- It was recognised that the present system had numerous shortcomings. For example, the regime had at times become a vehicle for trivial complaints and vendettas, and the standards process could be unnecessarily lengthy and bureaucratic. The Committee had sought by its methods of operation to minimise this. Members felt, however, that if the present proposals were carried through, it was unlikely that there would be an effective local government ethical code, which may be a matter of concern to the public. The Committee broadly supported the retention of a local standards framework, but with a streamlined and less onerous process.
- The proposals for Councillors to register their interests - with non-registration becoming a criminal offence - raised questions about how best to establish what interests Councillors would have, and who would be responsible for whistleblowing.
- There was merit in empowering Monitoring Officers to intervene in the early stages of a complaint as a means of reducing bureaucracy. Monitoring Officers had been considerably less proactive under the current legalistic regime, due to the potential for conflicts of interest as complaints progressed through the system. A process which gave Monitoring Officers more freedom to deal with complaints would be welcomed.
- Any new proposals would need to take account of the political process and – particularly at local authority level - the role of party whips in encouraging good member behaviour. The political structure of a local authority and its relationship to the standards framework was a significant issue which could differ widely from a strong single party political structure, to a narrowly hung council. The new regime would need to be responsive to this.
- The Committee expressed concern that it would be difficult to use the ballot box as a method of regulating councillors' behaviour, because elections only took place approximately every three years. There was a real risk of diminishing public engagement in local democracy, and of a general loss of public confidence in the democratic process.
- How would complaints about parish and town councillors be dealt with? The Herefordshire Association of Local Councils (HALC) had expressed a view at its recent AGM, that there was a prevailing need to retain some form of code of conduct, and have access to guidance on standards matters after the abolition of SfE. Local feedback from parish and town councils had indicated strong support for continuing with the local regulation of standards matters, and HALC had suggested establishing a voluntary code of conduct which local councils could agree to abide by, as one possible solution. The local filter had been extremely effective in enabling the Committee to identify at an early stage, those complaints which were political or vexatious in nature, through the benefit of local knowledge.
- A significant proportion of Herefordshire complaints cases had arisen out of failings in good governance rather than in standards and ethics. There was merit, therefore, in seeking to prevent such complaints through being clear about good governance, providing appropriate training, assisting with chairing skills, providing support to local clerks and offering mediation where necessary. The Committee had worked with HALC to provide some of these services, and the Quality Parish Scheme was an additional mechanism which could encourage good governance. It might be possible to build on this as a way to regulate standards in the future.
- The Committee questioned whether criminalising the failure to declare interests would be more effective than regulation through a code of conduct, given the current structure and application of criminal law. Further information was needed

on how complaints about matters other than members' interests would be dealt with. This was particularly important given that many Herefordshire complaints cases were about bullying and misuse of office.

- More clarity was required on the role of independence in dealing with standards complaints.
- How would complaints that fall between being trivial and being serious but which did not warrant criminal investigation be dealt with? These may be picked up by the Local Government Ombudsman (LGO) as maladministration complaints, but would the LGO have the resources to deal with them, and what powers would it have?
- The costs involved in the new proposals had not been set out, and might prove to be higher than the costs of the current local standards framework. At present, the complaints system was free to the public.

The Communities Secretary, Eric Pickles, had recently stated that discussions had been held with the Local Government Association (LGA) about some of the concerns which has been raised nationally. The Committee agreed to forward its comments to the LGA, and other organisations which would be part of the national discussion. It also emphasised that until legislation was passed, the statutory framework remained and the Committee would continue to deal with complaints in the same way.

RESOLVED: (unanimously) that

- (i) **the report be noted;**
- (ii) **the Committee's views, as expressed above, be circulated to the Committee by email and finalised, and then forwarded to all organisations involved in consultation with Central Government about the Localism and Decentralisation Bill, including the Local Government Association, the Local Government Improvement and Development Agency, the Association of Independent Members, the National Association of Local Councils, the Association of Council Secretaries and Solicitors; and**
- (iii) **the Committee's submission be considered by Council.**

32. LOCAL FILTER CASES AND DETERMINATIONS

Members reviewed progress made on complaints about local authority, town and parish councillors since the introduction of the local filter on 08 May 2008. To date, the assessment and review sub-committees had dealt with eighteen complaints in 2008, fifty in 2009, and so far in 2010, twenty-eight. The Committee thanked officers for their hard work in ensuring that cases were up-to-date.

RESOLVED: (unanimously) that:

- (i) **the report be noted; and**
- (ii) **a further report be presented at the next Standards Committee meeting outlining progress made with cases.**

33. PROGRESS REPORT ON A STANDARDS FOR ENGLAND INVESTIGATION

The Interim Assistant Chief Executive (Legal and Democratic) apprised members of progress made with a Standards for England Direction issued in respect of a particular parish or town council.

RESOLVED: (unanimously) that the report be noted.

34. RECOMMENDATION TO THE MONITORING OFFICER IN RESPECT OF A STANDARDS COMMITTEE HEARING DECISION

The Interim Assistant Chief Executive (Legal and Democratic) sought advice from the Committee in respect of a recommendation to her arising from a Standards Committee Hearing Decision.

The meeting ended at 5.25 pm

CHAIRMAN



MEETING:	STANDARDS COMMITTEE
DATE:	14 JANUARY 2010
TITLE OF REPORT:	APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS
REPORT BY:	DEMOCRATIC SERVICES OFFICER

Classification: Open

Purpose

1. To consider an application for a dispensation received from Dinedor Parish Council.

Recommendations

THAT

- (a) **the Standards Committee considers granting the three members of Dinedor Parish Council named in the report a dispensation in respect of Dinedor Village Hall**

Background

2. Under the Code of Conduct, town and parish councillors are prohibited from participating in matters in which they have a prejudicial interest. In the normal course of events this would not prejudice the proper working of their councils. There are instances, however, when the number of councillors who would be prohibited from participating will impede the transaction of business.
3. The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002, amended by the Standards Committee (Further Provisions) (England) Order 2009, give Standards Committees the power to grant dispensations in circumstances where: the number of councillors that are prohibited from participating in the business of the council exceeds 50% of those who are entitled or required to participate, or where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.
4. In each case, the councillor must request the dispensation in writing, setting out why the dispensation is desirable. The Standards Committee must then decide whether, in all the circumstances, it is appropriate to grant the dispensation.

Further information on the subject of this report is available from Heather Donaldson, Democratic services Officer on (01432) 261829

5. The regulations also specify two circumstances where a dispensation may not be granted; first, in respect of participation in business conducted more than 4 years after the date on which the dispensation was granted; and, secondly in relation to prejudicial interests concerning attendance at a scrutiny committee meeting which is scrutinising the activity of any other committee to which the member belongs, or for executive members in relation to their own portfolios.
6. Three members of Dinedor Parish Council have requested a dispensation in relation to Dinedor Village Hall. They are:
 - Mr Anthony Owen - a holding trustee in respect of Dinedor Village Hall and member of the village hall management committee;
 - Ms Barbara Ferris - a charity trustee in respect of Dinedor Village Hall and member of the village hall management committee; and
 - Mr Duncan Green. The village hall management committee is required to appoint another holding trustee. The position has been advertised in the parish, and to date, only Mr Green has expressed an interest. Mr Green is also a member of Dinedor Parish Council. He is awaiting the outcome of the Standards Committee's decision before taking up the post, so that the parish council can continue to make decisions about village hall matters.
7. The dispensation will enable Mr Green to undertake both roles, and the Parish Council as a whole to continue to discuss village hall matters. The total membership of Dinedor Parish Council is five, and its quorum is three.

Financial Implications

8. None.

Appendix

Letter and application form from the Clerk to Dinedor Parish Council dated 11 November 2010.

Dinedor Parish Council

Hackford House
Dinedor
Hereford
HR2 6PD
01432 870 874
Email kathgreenow@btinternet.com

11/11/2010

Dear Sir /Madam

Re: question 9 on form – Application for Dispensation

The Parish Council currently have 2 Cllrs who declare an interest on village hall matters these being Cllr Anthony Owen – Holding Trustee

Cllr Barbara Ferris – Charity Trustee – member of management committee

The village hall management committee need to appoint another holding trustee there are currently only 2 holding trustees and they require 3 in total.

We have had no interest from members of the parish with regard to being a holding trustee, however we have had interest expressed by a Cllr of The Parish Council .The Cllr Being Cllr Duncan Green.

The concern is that if this Cllr became a holding trustee anything concerning the village hall the Cllr would have to declare an interest. This being the case The Parish Council could not resolve anything as there would be 3 Cllrs declaring interests. Clarification is required as to whether the holding trustees need to declare a prejudicial interest or a personal interest.

If it is a prejudicial interest then the Parish Council will require dispensation as there will be only 2 Cllrs that would have no interests to declare on this and that would mean that they couldn't pass a resolution.

I would be grateful as the clerk if you can advise on this matter and inform the Parish Council of the outcome

Thank you
Yours Sincerely



Kath Greenow
Parish Clerk- Dinedor Parish Council

Application Form for a Dispensation


**under section 81 of the Local Government Act 2000
in respect of a Prejudicial Interest**

15 NOV 2010

Name of Council DINEDAR PASSED TO: H.O.

1.	Names of Councillors (the number must be not fewer than half of the total)	<p>CLLW A. Owen CLLW B. Ferris</p>
2.	What is the total membership of your Council, Committee or Sub-Committee for which dispensation is sought?	<p>5 members</p>
3.	What is the quorum of the Council, Committee or Sub-Committee concerned?	<p>3 members</p>
4.	What is the matter for which dispensation is sought?	<p>Trusteeship of Village Hall. CLLW A. Owen (Holding Trustee) CLLW B Ferris (Charity Trustee) Dinedar Parish Council have trust deed document (Governance document) in which the Village Hall are the management committee Please see attached letter for more details</p>

5.	For which type of meeting is dispensation sought? (Full Council, Committee or Sub Committee).	Full Council
6.	What is the nature of the prejudicial interest?	financial - Amendment of Trust deed.
7.	For how long is the dispensation needed? Please note that it cannot be longer than 4 years nor exceed the term of office of the Councillors concerned.	May 2011
8.	How is the business of the Council being impeded in the absence of a dispensation (for example, a village hall matter where some members are exempt because they are Village Hall Trustees)?	No discussion, Resolution could take place or be made regarding village hall, trust deed.
9.	Are there any other factors which might help the Standards Committee to reach a decision on the application?	Dunedor is a small rural parish, only community facility is the village hall. It has become difficult to get people involved in the village hall management.

Signed: 
Clerk to Parish/Town Council

Date: 11/11/10
hall to close,

Please complete and return this form to:-

The Monitoring Officer
Herefordshire Council
Brockington
35 Hafod Road
Hereford HR1 1SH

MEETING:	STANDARDS COMMITTEE
DATE:	14 JANUARY 2010
TITLE OF REPORT:	THE FUTURE OF THE LOCAL GOVERNMENT STANDARDS FRAMEWORK
REPORT BY:	ASSISTANT CHIEF EXECUTIVE LEGAL AND DEMOCRATIC

Classification: Open

Purpose

To consider the present outlook for standards and ethics in local government and the future role of the Committee.

Recommendation

THAT the report be noted and Members consider how best to advise the Council on the future maintenance of ethical standards.

Key Points Summary

- The Decentralisation and Localism Bill includes proposals to abolish the Standards Board regime.
- The Committee has previously considered some of the implications the proposed arrangements will have on the way ethical standards will be maintained and complaints dealt with in the future.
- Until such time as the new legislation is passed, the statutory framework remains operative and complaints are still being dealt with in the same way. A report about the progress of these is set out for Members in the confidential section of the Agenda.
- The Bill was introduced to the House of Commons on 13 December 2010 and gives some guidance about the arrangements that could be put in place locally to deal with matters when the Standards Board regime ceases.

Alternative Options

- 1 There are none.

Further information on the subject of this report is available from
Sian Clark, Democratic Services Manager on (01432) 260222

Reasons for Recommendations

- 2 To note the emerging information about the Government's planned Decentralisation and Localism Bill on the SFE and the ethical standards framework.

Introduction and Background

3. The Government announced its intention to abolish the Standards Board regime on 20 May 2010 and the Bill has recently been published. The aim of the government is to have the new arrangements in place by late 2011 and the Council will therefore need to consider what arrangements, if any, it needs to put in place for an ethical framework and the way in which complaints about councillors are dealt with.

Key Considerations

4. The Decentralisation and Localism Bill has the following provisions:
 - **The 'predetermination' rules** – The Bill will end the situation where councillors are prevented from acting on local issues because of the risk of challenge that they are biased.
 - **The Standards Board regime** – The Bill will abolish the regime and allow councils to make their own arrangements to govern propriety and behaviour and empower the local community to hold their elected representatives to account.
5. The Following is an extract from the explanatory notes to the relevant sections of the Bill

Chapter 4 – Predetermination:

clause 13 - prior indications as to view of a matter not to amount to predetermination

143. Clause 13 clarifies how the common law concept of "predetermination" applies to councillors in England and Wales. Predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgment fully and properly to an issue requiring a decision. Decisions made by councillors later judged to have predetermined views have been quashed. The clause makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.

144. Clause 13 applies to members of all councils in England and Wales to which there are direct elections - although it applies both to elected and to co-opted members of those councils, and also to members of National Parks Authorities and the Broads Authority.

Chapter 5: Standards

Clause 14 - Amendments of existing provisions

145. Clause 14, and the Schedule it introduces, abolish the Standards Board regime, which consists of the Standards Board for England, standards committees of local authorities, the jurisdiction of the First Tier Tribunal in relation to local government standards in England and a

codes of conduct for councillors. The abolition of the Standards Board for England and revocation of the codes of conduct will take place on a date appointed by the Secretary of State. None of the functions of the Standards Board for England are to be preserved. The power for the Secretary of State to issue a model code of conduct and to specify principles to govern the conduct of members of relevant authorities is removed together with the requirement for relevant authorities to establish standards committees. The First Tier Tribunal loses its jurisdiction over councillor conduct issues.

146. The Schedule contains provision for the Secretary of State to make an order regarding the transfer of the assets and liabilities from the Standards Board for England. It also makes provision for the Secretary of State to issue directions in connection with the abolition, including directions about information held by the Standards Board for England and makes provision for the final statement of accounts for the Standards Board for England to be prepared by the Secretary of State.

Clause 15 - Duty to promote and maintain high standards of conduct

147. Clause 15 places a duty on a relevant authority to ensure that members and co-opted members maintain high standards of conduct. It also defines what a 'co-opted member' is and what a relevant authority is for the purpose of this Chapter.

Clause 16 - Voluntary codes of conduct

148. Clause 16 provides that a relevant authority may adopt a voluntary code of conduct. If an allegation of a breach of a code is made in writing, the authority must take a decision on whether or not to investigate the allegation and, if it is considered that an investigation is warranted, investigate in any way the authority sees fit.

Clause 17 - Disclosure and registration of members' interests

149. Clause 17 provides for the establishment and maintenance of a register of members' and co-opted members' interests by the local authority by giving the Secretary of State power to make regulations to specify what interests must be recorded in that register. The regulations may make provision for restrictions on taking part in the business of the council to be imposed on a member or co-opted member with a registered or declared interest. The regulations may require the register to be available to the public and may make provision about exempting sensitive information from it.

Clause 18 – Offence of breaching Regulations under Clause 18

150. Clause 18 makes it a criminal offence to fail, without reasonable excuse, to comply with obligations imposed by regulations under clause 17 to register or declare personal interests, or to take part in council business when prevented from so doing by such regulations. The penalty that the magistrates' court may impose upon conviction is a fine of up to £5,000 and an order disqualifying the person from being a member of a relevant authority for up to five years. A prosecution for the offence may be brought within 12 months of the prosecuting authorities having the evidence to warrant prosecution, but only by or on behalf of the Director of Public Prosecutions.

6. Whilst the effect of the changes will not be known until the proposals have been further debated and the contents of any secondary legislation are known, doubts have been raised about how complaints which fall short of criminality will be handled.
7. These concerns are shared by the Committee on Standards in Public Life. Its Chairman, Sir Christopher Kelly, feels that the lack of a national code of conduct and an independent complaints mechanism in the proposed new regime risks lower standards and a decline in public confidence. Sir Christopher also said:

"The Committee has long argued for proportionate ways of upholding strong ethical standards at local level and we recognise the problem in the existing regime of vexatious or politically motivated complaints. But the proposed stripping back of the current structure to virtually nothing loses sight of some important principles.

The proposals go well beyond the abolition of Standards for England. They involve the abolition of the national code of conduct for local authority members and remove the obligation on local authorities to maintain standards committees, chaired by independent people, to monitor standards and sanction aberrant behaviour. In future it appears that the only way of sanctioning poor behaviour between elections will be the criminal law or appeals to the ombudsman where someone's interests are directly affected by a decision.

The Bill refers to a duty on local authorities to promote and maintain high standards. If this is to mean anything, in the Committee's view it is essential that there remains a national code of conduct so that both councillors and – most importantly – the public can judge what is acceptable behaviour and what is not. Leaving it up to each local authority to decide whether to have their own code and - if so - what it should contain, risks confusion. National codes of conduct govern the behaviour of MPs, civil servants and others in public life. Why are councillors judged to be different?

Nor is it acceptable that the new regime leaves no independent mechanism for dealing with complaints about the behaviour of an individual Councillor aside from the criminal law– which will leave no way of responding between elections to behaviour which is seriously in breach of acceptable limits but not appropriate for criminal prosecution.

The Committee welcome the intention to make regulation more proportionate. But we believe that a national code and an independent complaints mechanism – however achieved – need to be retained to ensure that the public can have confidence in the integrity of the behaviour of our locally elected politicians."

8. The Department for Communities and Local Government have provided the following information:

“Proposed transitional measures

Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that their allegations would be properly dealt with. It also enables 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

Further information on the subject of this report is available from
Pete Martens, Committee Manager on (01432) 260248

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.

The conduct regime in a post-Standards Board world

The Government is committed to maintaining high standards of conduct in office and will ensure that, in the absence of a statutory code of conduct, councillors do not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represent. Members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The Government intend that wilful failure to comply with these requirements will constitute a criminal offence.

The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.

The requirement to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council."

9. Numerous questions are raised about the proposals, interim arrangements and the adoption of a local procedure. Careful consideration will be given to these points and there will be further reports submitted to the Committee about them.

Community Impact

8. It is important to ensure that the community at large is aware that the statutory framework remains operative.

Financial Implications

9. There are no further financial implications known at this stage.

Legal Implications

10. Until such time as the relevant legislation is passed, the current statutory framework remains operative

Risk Management

11. There is a need to ensure that, until otherwise known, the statutory framework is adhered to. Ethical standards are important to the Council and, following the abolition of this framework, the effectiveness of the new statutory regime needs to be monitored

Consultees

12. There are none

Appendices

None

Background Papers

DCLG information release dated December 2010 & Ministerial Statement dated 13th December, 2010.

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