

EAST HERTS COUNCIL

STANDARDS COMMITTEE – 16 AUGUST 2011

REPORT BY THE MONITORING OFFICER

THE LOCALISM BILL

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To consider the changes to the standards regime contained in the Localism Bill.

<u>RECOMMENDATION:</u> that:	
(A)	the Committee makes the following recommendation...

1.0 Background

1.1 The Localism Bill will place a new duty on the Council 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 local authority Standards Committees. In its place will be a new statutory Register of Members' Interests, with criminal penalties for failure to comply.

1.2 Some authorities may decide to do nothing other than implement the new statutory interests regime. However, high standards of conduct go beyond mere compliance with a statutory interests regime. The Bill includes a duty to promote and maintain high standards of conduct. It would be difficult for

an authority to claim to promote and maintain high standards of conduct unless it had set out what standards it expected of its Members.

2.0 Report

3.0 Non-statutory Code of Conduct

3.1 One option would be to expand the Member/Officer Protocol and the related documents covering planning decisions, use of Council IT equipment and gifts and hospitality.

3.2 An alternative is for the Council to adopt its own code. If the authority is considering adopting its own code, one option would be simply to re-adopt the general conduct rules in paragraphs 3-7 of the Model Code, as these are the parts which will not be replaced by the statutory interest's regime. If this non-statutory Code were applied to conduct as a Councillor only, it would avoid the complications of trying to apply the Code to conduct in private life. It would cover situations if Members were to bully, breach confidentiality, misuse their positions for personal advantage, fail to treat people with respect, cause the authority to discriminate unlawfully, intimidate or victimise witnesses, bring their offices as Members or their authorities into disrepute, misuse Council resources or ignore statutory officers' advice.

3.2 Such a non-statutory Code could be supplemented by the existing guidance to Members on danger areas such as use of IT and the internet, planning and lobbying, Member/officer relations and gifts and hospitality. These documents could be updated as necessary.

3.3 However, the Localism Bill provides that, where a local authority does adopt 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 review subcommittee would no longer exist. The Bill gives

considerable freedom to delegate more of the process, to enable speedier investigation and resolution of simple matters.

4.0 Investigation of complaints

4.1 It is possible to do all of this between the Monitoring Officer and full Council. But full Council is not an appropriate forum for detailed examination of an investigation report so it would be more convenient to set up a Committee to advise them on how best to discharge the new duty and to undertake casework on complaints. The Bill removes the rigid bureaucratic process for handling of complaints, so that this Committee could allow the Monitoring Officer to seek local resolution and determine that a complaint need go no further if, for example, the complainant is satisfied with the Member's response.

4.2 To speed the process, the Committee might say that the consent of the Chairman would be required for a decision not to investigate a complaint, but that the Monitoring Officer could take the decision to initiate an investigation. The Monitoring Officer's investigation report might then go to the Committee for examination, and to give the Member an opportunity to respond.

5.0 Independent members

5.1 That raises the issue of whether such a committee can include co-opted independent members. Section 102(3) of the Local Government Act 1972 enables the co-option of non-councillors onto the 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. So, at present, it would be necessary for the Committee to recommend any matter on to Council for decision, if the co-opted independent members are to have a vote. This may be positively advantageous on individual complaints, as full Council would have ownership of the matter, could remove the errant member from outside bodies and, with the approval of the Member's Group Leader, remove the Member from Committees.

6.0 Ability to deal with Member misconduct

- 6.1 Councillors conduct can seriously disrupt the ability of an authority to discharge its functions effectively. They can discredit the authority with the public. Repeated leaking of confidential information deters citizens from confiding in the authority. They can drive out good officers and deter good candidates from seeking election to the Council. Breaches of the general conduct rules are rarely visible to the electorate and are rarely resolved through the ballot box, and an authority may need to limit the damage which an errant Member can wreak before the next election.
- 6.2 Without the statutory sanctions of suspension, an authority's ability to deal with serious Member misconduct will be strictly circumscribed. It can name and shame. Full Council can remove Members from committees. Where there is a failure to register interests, it can seek to persuade the Police to take an interest.

Background Papers: Localism Bill

Contact Member: Councillor Anthony Jackson
Leader of the Council

Contact Officer: Simon Drinkwater
Director of Neighbourhood Services - Ext
1405

Report Authors: Simon Drinkwater
Director of Neighbourhood Services - Ext
1405

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i>
Consultation:	None
Legal:	Contained in the report
Financial:	some costs may arise in respect of any new administration arrangements.
Human Resource:	None
Risk Management:	The Council needs to ensure it has adequate processes and procedures to ensure there is a high standard of governance and ethics.