

STANDARDS COMMITTEE – 13 JULY 2010

THE FUTURE STANDARDS REGIME

Report of the: Monitoring Officer

Status: For Consideration and Comment

Key Decision: No

Portfolio Holder Cllr. Elaine Bracken – Portfolio Holder for Safe Community

Head of Service Head of Legal and Democratic Services – Mrs. Christine Nuttall

Recommendation: It be RESOLVED that the report be noted and that Members provide comments for the future to be forwarded to the Standards for England.

Introduction

- 1 The Government announced in the recent Queen's Speech that the proposed Decentralisation and Localism bill will include proposals to 'abolish the Standards Board regime'. Beyond this statement the Standards for England are saying that they do not have clear details of the scope or implications of this proposal but as details emerge they will keep us informed of developments and would be interested in hearing views about how future arrangements could most effectively work.

Background

- 2 The Local Government Act 2000 provided a comprehensive review of the structure and rules of local government and introduced executive government and the Code of Conduct. The Code of Conduct introduced a set of new conduct rules based on personal and prejudicial interests replacing the old National Code based on the pecuniary and non pecuniary interest regime.
- 3 The old National Code of conduct was backed by maladministration and there was personal liability for members through the regime of surcharging where a member had caused loss to their authority by wilful misconduct. A Member who failed to declare and withdraw for a pecuniary interest could receive a criminal conviction. There is no suggestion that the old regime should be reinstated. However, it is difficult to anticipate a vacuum and so suggestions for a proportionate system for the future are now being canvassed.
- 4 This year the Standards for England published a review of the local standards framework which is attached as an Appendix to this report. The review provides useful headings that this committee may wish to consider when trying

to formulate proposals for workable future mechanisms to ensure that politicians can be held to account.

The Review

- 5 The review found that the existing framework was having a positive influence on member behaviour and that it had gained widespread support from local authorities, although it also said that “in the current political climate “, the public was less convinced.
- 6 The recommendations are summaries as follows:
- More streamlined local assessment – arrangements to more easily dismiss trivial and less serious complaints, saving on time, money and burdensome process.
 - An enhanced role for independent chairs and vice chairs – in the assessment of complaints and the progress of investigations, with a counterbalancing extra power for the national regulator to investigate and if necessary remove poor performing or partisan chairs.
 - A new power for standards committees to be able to halt investigations, if they have good reasons.
 - A commitment to greater transparency for members who are the subject of complaints.
 - The need to develop an approach which allows better understanding and management of costs associated with the operation of the framework.
- 7 The review looked at simplifying the local filter and the recommendations were as follows:

Recommendation 1:

The law should say that monitoring officers, rather than standards committees, should receive all allegations and make a decision about whether or not they are within the remit of the Code of Conduct.

Recommendation 2:

For allegations within the remit of the Code the independent chair of the standards committee, acting with the advice of the monitoring officer, should determine what happens to an allegation.

Recommendation 3:

The vice chair of the standards committee should be an independent member.

Recommendation 4:

If the chair is unavailable or has a conflict of interest in relation to an allegation then the independent vice chair should deputise. Standards committees should be able to develop reciprocal arrangements so that their chairs can assess each other's allegations.

Recommendation 5:

Standards committees should undertake retrospective periodic reviews of these decisions to ensure consistency and quality. The national body should also provide oversight via its regulatory role.

Recommendation 6:

The current statutory review arrangements should be removed but authorities should be given a discretionary power to allow for the review of particular decisions. This review could be undertaken by the standards committee or a sub-committee of it, by an independent member of the standards committee not involved in the initial decision or by any of these from another principal authority.

Recommendation 7:

After completion of a local investigation the chair of the standards committee should decide whether to accept a finding of no breach, and where a breach is found, whether the case should go to a local hearing or to the First-tier Tribunal. Vice chairs should be able to deputise in this role.

Standards committees should be able to develop a wide range of reciprocal arrangements with other standards committees so that their chairs can assess each other's investigations in this way.

Recommendation 8:

The chair or the vice-chair should have a greater role in case management, making the pre-hearing decisions (For example, setting deadlines for responses to documents, deciding which witnesses should be called to give evidence and dealing with applications for an adjournment) with advice from the monitoring officer.

A consequence of recommendations 1 to 8 is that standards committees would be able to focus on the more serious matters demanding their attention including their role of promoting high standards (See 8.9), as well as their oversight role.

8 All the recommendations are set out within Appendix 1 of the review numbering 17 in all.

Key Implications

Financial

- 9 None arising from this report.

Community Impact and Outcomes

- 10 The community would expect the Council to operate to the highest ethical standards.

Legal, Human Rights etc.

- 11 Many would argue that there needs to be a governance framework to ensure against corruption and abuse of power. It would seem unacceptable that members could be allowed to seriously misconduct themselves damaging the reputation of their authority and local government as a whole.

Conclusions

- 12 The Standards for England have indicated that they remain committed to ensuring that there is a proper framework of local accountability in which the public can have confidence and that they wish to work with central and local government to develop any proposals. They will be keeping us informed of developments as more details emerge and they are interested in hearing our views about how future arrangements could most effectively work.

Risk Assessment Statement

- 13 No specific risks identified arising directly from this report.

Sources of Information: None.

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